Supreme Court, U.S.
FILED
05388 SEP 17 2005
OFFICE OF THE CLERK

NO._____

In The

Supreme Court of the United States

Nick A. Kolev, PhD, P.E.(In Pro Se)

Petitioner

v.

Department Of Homeland Security,BCIS, California et al

Respondents

Represented by: Sharla Lee Cerra SB#187176

On Petition for Writ of Certiorari
To The United States Court of Appeal
For The Ninth Circuit No.04-56137

PETITION FOR WRIT OF CERTIORARI

Nick A. Kolev, PhD, In Pro Se
10720 Lakewood Blvd. # 340
Downey, CA 90241
Ph:714-349-2207
Fax: 562-923-6518

I. QUESTIONS PRESENTED FOR REVIEW

"IN THE TIME OF UNIVERSAL DECEIT TELLING THE TRUTH IS A REVOLUTIONARY ACT "G. Orwell

Jewish Ritual Murder of Russian US Marine LcPl Y.Y. Pletnikov in Okinawa 1998 and following cover up, presented indirectly for this case the following challenges:

1/Whether a service of process(official/personal capacity) on Director of Gov. Agency(NOT OPEN TO THE PUBLIC) should be perfected on Defendant, on His Gov. Counsel or His Attorney? when all three refuse service of process. Ultimate authority in Service of Process.

2/. Whether a Civil Rights case could be dismissed on Personal Jurisdiction F.R.C.P.12(b)(2)before expiration of statutory limit.

3/ Whether US Attorney could represent Gov. Defendant ONLY in his official capacity. Who represents him in personal capacity?

4/Whether a Civil Rights case-Fundamental Right to marry could be decided without Oral Argument and Trial by Jury.

5/ Whether exhaustion of Administrative procedure is covered after 6 months waiting for purpose of FTCA 28 U.S.C.A. §2675 when no administrative procedure available.

6/ Whether Visa Consular Officer could challenge US Attorney General decision on K-1 Fiancée visa and if so who has the ultimate authority?

7/ Whether Consular Investigation of Private life of US Citizen in matter unrelated to K-1 visa is "Ultra Virus", or covered by Consular immunity.

8/ Whether a "Prima Facie" Discrimination of US Citizen by Consular Officer in K-1 Fiancée Visa Process is covered by Civil Rights Law, or by Consular Immunity-no remedy.

CORPORATE STATEMENT

The undersigned, Mr. NICK A. KOLEV, PhD, P.E.(party appearing in pro per), certifies that the following listed party (or parties) has (have) a direct, pecuniary interest in the outcome of this case.

PARTY.: Judges: G. Lewis-Trial; F.Horn-Presiding; J.Watson-Supervising CONNECTION: OC Superior Court, CA Legal Malpractice **Case: 02CC06912** ; **Justices:** W. Rylaarsdam; D. Sills, Fybell-CA 4th Appellate District; Div. 3 - Judicial Corruption **Case G032337**; US Supreme Court **Case No. 04-1042** from April 18th, 2005.

Attorneys:T. Prescott CA.,SB. 123530-Divorce Attorney for N. Kolev; Legal Malpractice; **Bridgman &Associates** Divorce Attorneys for G. Kolev; Attorney **Vickie Bridgman** SB 138225 - DA Office OC, CA **Law Firm "Hollins&Fields"** -T. Prescott Attorneys in Legal Malpractice; **Law Firm Hollins &Schechtman** Employers of Judge G. Lewis son.

PARTY.: Judge: A.M.Luna-Trial; Judge Patty J. McKay-Traffic Appeal: ;**CONNECTION**: L.A.County Superior Court,CA Traffic **Cases: BR043843; A505602;**

PARTY: US Naval Investigative Services: Mr. Ron Casey; Mr. Edward Kunigonis; Mr. Michael Devine; **CONNECTION:** Death of Russian US Marine Y. Y. Pletnikov investigation.

PARTY IN THIS CASE: State Department Legal Advisors: Gordon Dickey; Geoffrey Gorsky; Legal Counsel for Department of Homeland Security.

PARTY ABROAD: Russian Embassy in Washington, DC., Dioceses of Russian, Ukrainian, Belarus Orthodox Churches in Europe and US. **CONNECTION:** Jewish Ritual Murder of Russian Orthodox US Marine Y.Y. Pletnikov - possible canonization.

II. LIST OF ALL PARTIES TO THE APPEAL PROCEEDING US COURT OF APPEAL, NINTH CIRCUIT, (No. 04-56137)

KOLEV, NICK A. P.E. Ph D, Civil Engineer ,
Ph:714-349-2207
COUNTY OF LOS ANGELES, CA
10720 LAKEWOOD BLVD. # 340
DOWNEY, CA, 90241-3598

Plaintiff

V.

1/. Attn. Mr. Donald Newfield
BCIS-CALIFORNIA SERVICE CENTER-
24000 Avila Rd., Second Floor, Room 2302,
Laguna Niguel CA, 92677,
Phone: 800-375-5283

2/. Attn. Mr. David Tyler
DEPT OF STATE-NATIONAL VISA CENTER
32 Rochester Ave., Portsmouth, NH , 03801-2909
Phone: 603-334-0700

3/. Attn. Mr. James Pettit, Consular Services
US Embassy / -Consular Section,
21, Novinskiy Boulvar
Moscow, 123242, RUSSIA
Phone: 011-7-095-728-5000

Defendants

LEGAL COUNSEL FOR ALL DEFENDANTS:
Mrs. SHARLA LEE CERRA, SB # 187176
Assistant US Attorney,
Room 7516, Federal Building
300 N. Los Angeles St.,
Los Angeles CA 90012,
Phone: 213-894-6117, Fax: 213-894 7819

TABLE OF CONTENTS: **PAGE**

I. OPINIONS BELOW 1

II. JURISDICTION 1

III. CONSTITUTIONAL AND STATUTARY PROVISIONS INVOLVED 2

IV. STATEMENT OF THE CASE 4

V. STATEMENT OF THE FACTS 5

VI. REASONS FOR GRANTING THE PETITION 10

A/Constitutionality in Service of process and Dismissal. Personal Jurisdiction underF.R.C.P. 12(b) (2) 10

B/ Constitutionality under Dismissal per F.R.C.P. 12(b) (1) failure to state a claim under which relief is granted 12

C/ Constitutionality under Dismissal per F.R.C.P. 12(b) (6) Subject Matter Jurisdiction. 14

VII. CONCLUSION 16

TABLE OF STATUTES **PAGE**

Fed. Rule Ap. Pr. 35(b) 1
Fed. Rule Cil. Pr. 59(b)
US SC Rule 13.(1),
US Constitution Article III,
28 U.S.C. § 1654
State Cal. Constitution Article I, §§ 7,15
US Constitution Amendments I, V, XIV
U.S.C.A Title 28 § 2675. 2
USC Title 8 § 1184.
CFR 22, Ch 1, § 40.6 3
CFR 22, Ch 1, § 40.201(a)
INA 212(a)(6)(C);(3)
USC 8 § 1103. 4
USC 8 § 1104.
FRAP 12(b)(6) 5
FRAP 12(b)(1)
FRAP 12(f)
FRAP 12(e)
FRAP 12(b)(6)
FRAP 12(b)(1).
FISA Title 50 US Code §§ 1801-1860 6
8 C.F.R. §214.2(k)(2)
FTCA(28 U.S.C., §§ 1346(b)(1), §2671-2680) 7
8 C.F.R. 103.2(b)(16)
F.A.M. § 41.81,(2) 9
CFR 22 C, Part 22.1
22 U.S.C. 1201

F.R.C.P. 12(b) (2) 10
Business & Professions Code §6104 11
California CCP., §287(3)
California Rule Of Court 5-200 (B)
CCP §1209(a)(4);
8 CFR, Ch.1 § 42.81(a):
Colo. Rules of Prof. Conduct, Rule 1.1. 12
F.R.C.P. 12(b) (1)
Fed. Rule C.Pr. 4(f)(3)
28 U.S.C., §1331(a) 13
28 U.S.C., § 1346(a)(2).
Civil Rights Act of 1871
28 U.S.C., § 1927
28 U.S.C.A. §§ 2671 to 2680),
107 A.L.R. Fed. 309.
28 U.S.C.§ 1346(b)(1)
28 § 1343(1),(2)
42 U.S.C.§ 1981,
42 U.S.C.§ 1985(3),
42 U.S.C.§ 1986
28 U.S.C., § 1346(b)(1), §2671-2680
F.R.C.P. 12(b) (6) 14
8 USC § 1184. (d)
8 CFR, Ch.1 § 214.2(k)
8 CFR, Ch.1 § 214.2(d)
8 CFR, Ch.1 § 214.2(k)(2)
8 CFR, Ch.1 § 214.2(k)(4)
8 U.S.C. §1201 (a)(2)
8 U.S.C. §1184 (d),

8 U.S.C. §1201 (g)
8 U.S.C. §1182 (a)(1)
8 CFR. Ch.1 § 42.81(d)
8 U.S.C. §1182 (a)(2) 15
8 U.S.C. §1182 (a)(3)
9 F.A.M. §41.81 Ns. 5.3 and 5.4
I.N.A. 221(g)
8 CFR, Ch.1 § 40.201(a)(2).
8 CFR, Ch.1 § 40.201(b)
8 CFR, Ch.1 § 42.81(c);
8 CFR, Ch.1 § 42.81(d).
28 U.S.C.§ 1746 16

TABLE OF AUTHORITIES

Johnson v. Board of County Commissioners 868 Fed. Suppl. p.1226-1232; 1994 11

[Forum Fin'l Group, LLC v. President, Fellows of Harvard College (D ME 2001) 199FRD22.24 12]

PETITION FOR WRIT OF CERTIORARI

I. OPINIONS BELOW

Nick A. Kolev, PhD P.E., Plaintiff and Petitioner, respectfully petitions for **WRIT of CERTIORARI** from Order of US Court of Appeal(unreported), Ninth Circuit June 20th, 2005. (See P. Ax. 1) from Civil Rights Case disposed by US DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA On April 28th, 2004 No.:CV-03-07894-LGB(RCx) (See P. Ax. 5),

Petition for Oral Argument" to US Ninth Circuit Court of Appeals according to criteria set up in Fed. Rule Ap. Pr. 35(b) denied on April 29th 06th, 2005, (See P. Ax. 5), Motion for New Trial to US District Court, Central District of California-Los Angeles under Fed. Rule Cil. Pr. 59(b)disposed on June 1st ,2004 .

According to US SC Rule 13.(1), the **Petition is timely if within 90 days from June 20th,2005** (See P. Ax. 5),

II. JURISDICTION

US Supreme Court has original Jurisdiction under US Constitution Article III, § 2 to All Cases in Law and Equity.

The Justiciable Dispute involves validity of 28 U.S.C. § 1654 "In Pro Se" rights in all Courts, Fair and Due process under State (Cal. Constitution Article I, §§ 7,15) and Federal Law (US Constitution Amendments I, V, XIV) when Challenged US District Court Justice L.G. ignored Petitioner Recuse pleadings, and Us Attorney S. Cerra showed in case without any authority AND CLOSED IT.

III. CONSTITUTIONAL AND STATUTARY PROVISIONS INVOLVED

U.S.C.A Title 28 § 2675. Disposition by federal agency as prerequisite; evidence a) An action shall not be instituted upon a claim against United States for money damages for injury or loss of property personal injury or death caused by the negligent or wrongful act omission of any employee of the Government while acting within the scope of his office or employment, unless the claimant shall have first presented the claim to the appropriate Federal agency and his claim shall have been finally denied by the agency in writing and sent by certified or registered mail. The failure of an agency to make final disposition of a claim **within six months after it is filed** shall, at the option of the claimant any time thereafter, be deemed a final denial of the claim for purposes of this section

USC Title 8 § 1184. Admission of nonimmigrants(d) Issuance of visa to fiancée or fiancé of citizen

A visa shall not be issued under the provisions of section 1101(a)(15)(K) of this title until the consular officer has received a petition *(N.K.-has to have it, but could not establish his own criteria, or challenge AG on it issuance)* filed in the United States by the fiancée or fiancé of the applying alien and approved by the Attorney General. The petition shall be in such form and contain such information as the Attorney General shall, by regulation, prescribe. **It shall be approved only *(N.K.-The Petition, not the Visa)*** after satisfactory evidence is submitted by the petitioner to establish that the parties have previously met in person within 2 years before the date of

filing the petition, have a bona fide intention to marry, and are legally able and actually willing to conclude a valid marriage in the United States within a period of ninety days after the alien's arrival, except that the Attorney General in his discretion may waive the requirement that the parties have previously met in person. In the event the marriage with the petitioner does not occur within three months after the admission of the said alien and minor children, they shall be required to depart from the United States and upon failure to do so shall be removed in accordance with sections 1229a and 1231 of this title .

CFR 22, Ch 1, § 40.6 Basis for refusal.

A visa can be refused only upon a ground specifically set out in the law or implementing regulations. The term "reason to believe", as used in INA 221(g) shall be considered to require a determination based upon **facts or circumstances which would lead a reasonable person to conclude that the applicant is ineligible to receive a visa as provided in the INA** and as implemented by the regulations. Consideration shall be given to any evidence submitted indicating that the ground for a prior refusal of a visa may no longer exist.

CFR 22, Ch 1, § 40.201(a) types of failure to comply with INA:

(1) The applicant fails to furnish information as required by law or regulations;(2) The application contains a false or incorrect statement other than one which would constitute a ground of ineligibility under INA 212(a)(6)(C);(3) The application is not supported by the documents required by law or regulations;(4) The applicant refuses to be fingerprinted as required by regulations; (5) The necessary fee is not paid for the

issuance of the visa or, in the case of an immigrant visa, for the application therefore; (6) In the case of an immigrant visa application, the alien fails to swear to or affirm, the application before the consular officer; or(7) The application otherwise fails to meet specific requirements of law or regulations for reasons for which the alien is responsible.

USC Title 8 § 1103. Powers and duties(a) Attorney General

(1) The Attorney General shall be charged with the administration and enforcement of this chapter and all other laws relating to the immigration and naturalization of aliens,.. determination and ruling by the Attorney General with respect to all questions of law shall be controlling.(2) He shall have control, direction, and supervision of all employees and of all the files and records of the Service

USC Title 8 § 1104. Powers and duties of Secretary of State

(a)Powers and duties .The Secretary of State shall be charged ... except those powers, duties, and functions conferred upon the consular officers relating to the granting or refusal of visas;

IV. STATEMENT OF THE CASE

This case was filed as Biven's action for violation right to marry on 10/30/03 demanding $10,000 material loss and $40,000 emotional distress. Cover sheet was improperly marked as suit against US, when it is Federal Question. Later FAC included official capacity charges. Defendant counsel is arguing with herself about Kolev lack of standing to claim visa for third party, stating K-1 approval on 01/06/04 made the case moot. Kolev never pleaded his charges as visa case, because two of

defendants don't issue visas-not ultimate benefit. Lack of standing and mootness are not determined by visa, but by marriage. So if two parties did not marry- no case regarding visa issue.

Summons issued on 11/03/03. Service by mail, filed on 11/26/03. Ex-Parte to compel issuance of K-1 on 12/15/03 denied on 12/27/03. Order for additional Service on 12/20/03. Additional service on Defendant legal advisers, US Attorney, Attorney General filed on 01/12/04/. Peremptory challenge to Justice L. Baird on 01/12/04 for siding on 5 occasions with US Attorney, denied on 01/20/04. Court Order for additional service on 01/29/04 to be completed before 02/18/04, depraving N.Kolev of 180 days to serve First Amended Complaint(FAC) filed on 02/18/04. Motion to dismiss under FRAP 12(b)(6) and FRAP 12(b)(1) filed on 03/05/04. N. Kolev Motion to strike FRAP 12(f) and more Definitive Statement FRAP 12(e) on 03/21/04. Counsel S. Cerra reply on 03/29/04. N.Kolev motion to compel service on 03/30/04 and S. Cerra opposition on 04/07/04. Order denying plaintiff motion to compel service and to be reimbursed for unreturned acknowledgment receipts 04/29/04. Order to dismiss under FRAP 12(b)(6) and FRAP 12(b)(1). Motion for new trial on 05/11/04. Order denying Disqualification of Justice L. Baird 05/27/04. and denying new trial on 06/01/04. Notice on Appeal on 06/25/04.

V. STATEMENT OF THE FACTS

Allegedly On April(18-19) 1998 (Russian Orthodox Passover/Jewish Pessah) a Jewish Ritual Murder (see Apx 2-3, published for the First time) of Russian US Marine Y. Y. Pletnikov- a Soldier in the top 2% by physical fitness-

took place in US Marine Base-Okinawa, Japan.

During confrontational investigation of this heinous crime Naval Investigative Services, or Orange County District Attorney /allegedly/ produced an Affidavit under FISA Title 50 US Code §§ 1801-1860 speculating about Yuriy's death *Russian who served in both armies*/to thwart any attempt by Yuriy's family to find the truth and to give themSELVES right to any violation of family privacy rights including bribing of Yuriy's sister and ex-wife of N. KolevThe most militant person in this investigation forcing military to reverse his original findings was N. Kolev

Ever since any right of Petitioner to get married or divorced was denied INCLUDING this case.

That's how match **"Equal protection under the law"** we have in the country leading World quest for democracy -**a joke carved in the front of US Supreme Court.**

1. On 03/23/03 Kolev has filed I-129F Fiancée package with BCIS_Laguna Niguel including: A./US passport with the Russian custom stamps From Moscow Airport Sheremetievo, Entered On 08/18/2002 Left On 09/09/02 B./ airfare ticket L.A.-Moscow-St.Petersburg; C/. luggage claim stubs D/. Itinerary From Golden Star Travel Agency plus mail, videotape, post-cards.

2. According to 8 C.F.R. §214.2(k)(2) the criteria to meet K-1 Fiancée has to be established to the satisfaction of BCIS Director-Mr. Donald Newfield-THAT'S WHY HE IS PARTY IN THIS CASE AND HAS RESPONDEAT SUPERIOR AND VICARIOUS LIABILITY.

3. BCIS-Laguna Niguel sent Receipt Notice stating 205-235 days to process, which is Prima Facie cause of Action for

FTCA(28 U.S.C., §§ 1346(b)(1), §2671-2680) when more than 6 moths no answer.

4. BCIS on 08/06/03 sent discharge letter asking for more information before 10/29/03 denial date. According to BCIS Evidence Standard Kolev's submittal covered 4 times requirement and he believed is discriminatory.

5. On 08/23/03 Kolev send his Original Passport, Ticket, Luggage stubs and stated his legal standing to sue and requested in person inspection of the file according to 8 C.F.R. 103.2(b)(16)*" Petitioner should be permitted to inspect record basis for decision"*.

6. Before to Complain to Congress woman L. Roybal-Allard, 34 District, on 09/18/03 Kolev exhausted administrative procedures: call on National HLS Center: 800-375-5283 who just turn him down because MARRIAGE IS NOT EMERGENCY. Kolev send the same 08/23/03 letter to D. Newfield Room 2302.

7. The same humiliating procedure through NVC-Portsmouth with only Administrative remedy exhausted to talk to Nickky-Supervisor NVC and to have Mr. David Tyler address and name.

8. More than 15 faxes to James Pettit-US Consulate Moscow, Bureau of Consular Affairs-Washington, DC : 202-663-3899; Jeffrey Gorsky-Consular Affair adviser, Gordon Dickey-DS Legal adviser, Amy J. Rofman DC Russian Desk; Consular 7m@state.gov; consulmo@state.gov; between 10/10/03 and 12/10/03 exhausted all available remedies without producing nothing. Why? Because all NAMED employees are Jewish, many Soviet Jewish or Soviet Armenian with personal bias against ethnic Russians as recidivism of the cold war, when

they were blocked to immigrate, and ethic bias to their own people who are the only one to qualify for emergency.

9. On 12/10/03 Officer Seleznevan (Soviet Armenian, particularly picked up by his Jewish bosses because of fax complaint to James Pettit, about all employees, including Igor,- the phone door man to be Russian Jewish, who was absolutely disrespectful to any body who is not Jewish) picked up Ms. Krasnova from line, talked to his supervisor in her presence to be shore she is the "trouble maker" and after that quietly discharged her without looking at any thing, without translator- why extra witnesses.

10. Before the scheduled interview a Secretary in Consular Office is examining the beneficiary file for compliance with list of requirements. If deficiencies noticed the beneficiary is rescheduled. Ms Krasnova did pass this check up and had all necessary documents.

12. On the question of Ms Krasnova, Why? What is the problem? The Consular officer produced the fallowing oral answer,:

a/. Encircling Kolev passport number on front page *(EP Attachment P. 12)* and last page *(EP Attachment P. 11,)* putting a thick question mark he concluded: *"These two numbers have to match, the front and last page Xerox copies are from 2 different passports"*. The office of Congress woman L. Roybal-Allard did check with passport services why they are different. The answer: *"Who is this idiot who works for Consular Services and does not know they have to be different"*.

b/. The last page is printing house number, when passport is blank, the front page number is associated with the bearer - THEY NEVER MATCH. He could not recognize the

last page stamps and dates *(EP Attachment P. 11,)* - crystal clear for anybody who does not have vision impairment.

c/. The ticket - Consular officer could not recognize what is in the ticket stub information - the person who is almost illiterate, or slightly littered in written English. *(Attachment P. 13).*

d/. No common pictures remark. According to Immigration requirements, which should not and are not different from State Department requirements *(Attachment P. 06,)* passport stamps, ticket are primary evidence, pictures are considered only with negatives. two fiancés had index pictures showing them on same roll of film *(EP Attachment P. 14-16,)* possible only if they met together.

13. First it was denial, after that smudged Refusal letter and finally oral "explanations". He denied approved by BCIS K-1 Visa anonymously, no written explanations to a foreigner, no dates, no chances to fix any deficiencies in the PROCESS WHICH TOOK ALREADY A YEAR.

14. This animosity to some extent was related to faxes criticizing Consular Services web site. *Documents confirming relationship* is exact duplication of BCIS. *(FAC Exhibit No. 7, Page(s) 33). Financial documentation from the Plaintiff (FAC Exhibit No. 7, Page(s) 33)* right to get married challenged by financial criteria in violation of F.A.M. § 41.81,(2): *no absolute requirement that an affidavit of support or other public charge documentation be presented.* - unlawful to charge $1.65 per minute US citizens calling from US for inquires in Government Office. *(FAC Exhibit No. 7, Page(s) 32).* in violation of-CFR 22 C, Part 22.1 and 22 U.S.C. 1201.. Also mandating *completion of administrative processing. (FAC Exhibit No. 7, Page(s) 33)*

before any record shown, straight and open invitation to bribe the Consular officer. US Embassy-Moscow home for all bureaucrats produced in large numbers in Cold war era, who the State Department does not know how to recycle.

15. The Index pictures, pictures and negatives were submitted for second consideration based on letter from Congresswoman.

The prejudicial and discriminatory minded Officer Seleznevan on 12/16/03, refused evaluation at interview and threw out Ms Krasnova second time requesting to drop the additional evidence in the box outside regardless of letter from Congresswoman L.R. Allard.

16. Ms Krasnova is in the Plaintiff's hat, a leather hand crafted hat from Tijuana, Mexico produced in small number and impossible to buy in Russia (*Ex-Parte p. 15*).

17. The pictures were irrelevant to the decision, but the delay to damage Kolev IRS liability was important and once done held beyond December 31st Seleznevian approved the application on January 6th, 2004.

VI. REASONS FOR GRANTING THE PETITION

The Court's Authority is not based on specific enforcement arm. **Impartial and equal implementation of the Law is essential in maintaining its authority,** which would be strongly undermined when judiciary takes sides, expresses prejudice, mends the law for personal benefit, pardon friends and cronies in Government office, Court accepted chaperoning from US Attorney Office how to dispose a case IS THE END OF JUSTICE SYSTEM THE WAY WE KNOW IT.

A/Constitutionality in Service of process and Dismissal, Personal Jurisdiction underF.R.C.P. 12(b) (2)

US Attorney S. Cerra appeared in this case without authority and shot it down. If we filed a murder caser for Yuriy, she could shut it down the same way?

Business & Professions Code §6104. *Appearing as attorney without authority for a party to an action or proceeding constitutes a cause for disbarment or suspension.* (Origin: California CCP., §287(3) Violation Of California Rule Of Court 5-200 (B)-*A Bar member shell not mislead the judge, judicial officer , or jury by an artifice, or false statement of fact, or law.* Contempt of court according to CCP §1209(a)(4);

SPECIAL ATTENTION *Johnson v. Board of County Commissioners 868 Fed. Suppl. p.1226-1232; 1994*

Former employee of sheriff's department brought action against county and sheriff, in his individual and official capacities alleging sex discrimination in violation of Title VII and § 1983. Upon order to show cause, Senior District Judge, held that: (1) attorney cannot enter limited appearance on behalf of government officer in officer's official, but not his individual, capacity, *and (2) ghost-writing of documents for pro se litigant may subject attorneys to contempt of court.*

Case Opinion Civil Rights *Individual capacity civil rights suit seek to impose liability on named government officer for actions taken under color of state law. In official capacity civil rights suit, governmental entity achieves status of real party in interest as it is subject to vicarious liability based on acts of omissions of named government officer.*

Attorney and Client Attorney cannot enter limited appearance on behalf of government officer in officer's official capacity, and not in his individual capacity; *whether officer is sued in individual or official capacity, it is officer who must answer and defend action, and entering such limited*

appearance is not competent and zealous representation as required by ethical rules? it leaves officer undefended on individual capacity claims. Colo. Rules of Prof. Conduct, Rule 1.1.

This created absurd situation: Attorney S. Cerra is illegally on the case-although served 13 times with complaint she believes the Defendants should be served in person. Defendants don't want personal service-they have legal counsel.

BASICALLY THERE IS NO PERSON TO ACCEPT THE SERVICE?! Fine with Judge Lourdes Baird and 9th Circuit. Haw about the law? Fed. Rule C.Pr.4(f)(3) is a "catch-all provision that enables the court on ex parte motion to devise a method of service responsive to the unique facts of the case." ***[Forum Fin'l Group, LLC v. President, Fellows of Harvard College (D ME 2001) 199FRD22.24]***

Personal Service on Visa Counsel in Moscow, while presented by Attorney across the Street-The Most absurd service of process EVER MADE IN CONTINENTAL 48 STATES, maintained by both Lower Courts.

B/ Constitutionality under Dismissal per F.R.C.P. 12(b) (1) failure to state a claim under which relief is granted

This case was filed as Biven's action for violation right to marry on 10/30/03 demanding $10,000 material loss-including DUE NOW Federal and State taxes and Penalties for 2003 and $40,000 emotional distress. Lower Courts are stating that you DO NOT HAVE A CLAIM if you are discriminated by Government employees in Individual and Personal capacities

and you could not get Court relief under family right to marry, racial discrimination under Civil Rights Act of 1871, Title 28 U.S.C., §1331(a) Federal Question and 28 § 1343(1),(2) Depravation of Civil Rights with class based animus discrimination waiving sovereign immunity under Title 42 U.S.C.§ 1981, 42 U.S.C.§ 1985(3), 42 U.S.C.§ 1986(Action for neglect to prevent); Federal Tort Claims Act 28 U.S.C., § 1346(b)(1), §2671-2680 and Little Tucker Act 28 U.S.C., § 1346(a)(2).Title 28 U.S.C., Section 1927 (Counsel's liability for excessive costs) and the violations of the First, Fourth, Fifth, Ninth, Tenth, Fourteenth Amendments of the Constitution.

EVERYBODY WHO APPLIES FOR K-1 MARRIAGE VISA AND DOES NOT GET IT WITHIN 6 MONTHS HAS A CLAIM FOR MATERIAL AND EMOTIONAL DAMAGES UNDER Federal Tort Claims Act (28 U.S.C.A. §§ 2671 to 2680), 107 A.L.R. Fed. 309. This is a Prima Facie claim against Defendants Neufeld and Tyler when Petitioner applied in March 2004 and DID NOT GET IT until Jar.. ary 2005.

1/. Ultra Virus acts of D. Newfield: a/. looked twice the same evidence and once found it unsatisfactory, second time satisfactory showing discrimination, incompetence with passports, custom stamps, ticket; b/. In receipt Notice(FAC Attachment p. 11) D.Newfield is stating 205-235 days minimum waiting in violation of FTCA 28 U.S.C., § 1346(b)(1), §2671-2680 LIMIT OF 180 days for the whole process c/. In approval Notice (FAC Attachment p. 31) D.Newfield is stating 14-28 days to complete the process while

it took 112 days which misled N. Kolev to make wedding arrangements buy tickets loosing about $5000.

C/ Constitutionality under Dismissal per F.R.C.P. 12(b) (6) Subject Matter Jurisdiction.

This is the most controversial part of the whole case- Please, read it carefully! The Lower Courts and US Assistant Attorney S. Cerra are trying to hide under Consular Immunity., which suppose to be a taboo to the Courts-as match, as foreign policy of this administration and this Congress. What abuse of law?!?

Defendants failures of statutory frame work-ultra virus

1/. Ultra Virus acts of J. Pettit and Seleznevan According to 8 USC § 1184. Admission of nonimmigrants(d) and 8 CFR, Ch.1 § 214.2(k) N. Kolev had to prove to the satisfaction of Mr. D. Newfield -he met his fiancée within 2 years. The primary evidence(FAC, Attachment p.13- I-797)- custom stamp in passport, ticket, luggage stubs, itinerary, video tape were originally submitted by him on 3/21/03. According to 8 CFR, Ch.1 § 214.2(d) document copies accepted. This *met together* requirement could be waived by Attorney General according to 8 CFR, Ch.1 § 214.2(k)(2) if N. Kolev as ex-refugee had a problem to travel back. If petition is denied N Kolev has to be informed about the reason and the appeal process 8 CFR, Ch.1 § 214.2(k)(4)

US Attorney S. Cerra is pleading at AB p. 6 ***Consulate "may issue a K-1 visa, but statute does not require consulate to do so"-SUCH A STRIKING INCOMPETENCE OF US ASSISTANT ATTORNEY.*** Consular Officer J. Pettit and his

agent Seleznevan DECISION IS A **MUST– 8 CFR, Ch.1 § 42.81(a):**

-to issue K-1 visa according to 8 U.S.C. §1201 (a)(2) and 8 U.S.C. §1184 (d), or

-to deny K-1 visa according to 8 U.S.C. §1201 (g)/I.N.A. 221(g)/ for grounds specified in 8 U.S.C. §1182 (a)(1) /I.N.A. 212(a)/ -health grounds, 8 U.S.C. §1182 (a)(2) - criminal grounds, 8 U.S.C. §1182 (a)(3)-security grounds. Also J Pettit and Seleznevan could return Petition to D. Newfield for reconsideration according to 9 F.A.M. §41.81 Ns. 5.3 and 5.4 if I. Krasnova **did hide pregnancy, previous marriage or existing child** and therefore violated I.N.A. 221(g) and 8 CFR, Ch.1 § 40.201(a)(2). Such violation after correction does not bar reconsideration 8 CFR, Ch.1 § 40.201(b)

If Consular agent Seleznevan makes mistake in **interpretation of law**, he could be overruled by Principal J. Pettit **8 CFR, Ch.1 § 42.81(c)**; or by J. Gorsky-Chief Legal Division Opinion DS **8 CFR, Ch.1 § 42.81(d). Agent Seleznevan opinion could hold only in application of law to the facts 8 CFR, Ch.1 § 42.81(d)**

PETTIT AND SELEZNEVIAN DO NOT HAVE AUTHRITY(DO NOT HAVE CONSULAR PROTECTION) THERE IS NO LAW WHICH GIVES THEM THE RIGHT TO DELVE IN THE PERSONAL LIVE, RELATIONSHIP OF US CITISEN AND HIS FIANCEE-to question his passport stamps, correspondence. to ignore and mock letters of US Congresswaman*(Appendicies 6, 8)* from the heights of his Virtual Consular Immunity

ISSUENCE OF A VISA IS AN INTERACTION B/W VISA CONSULAR OFFICER AND FOREIGNER-NOT B/W VISA CONSULAR OFFICER AND U.S. CITIZEN.

Such a self made provisions like No. 9,11 on web site(See Appendix 8) are racial, discriminatory provisions based on the Talmud and Shulchan Aruh, not American law and have the sole purpose of checking the background of US citizens(Not the Foreigners) on Cosherness and Judaism in order to prioritize Jewish interests over the interest of goyim.

VII. CONCLUSION

1/. Looking at all facts in Jewish Ritual murder on Russian US Marine Y. Y. Pletnikov and fallowing cover up WITH DENIAL OF JUSTICE OF EVERY SINGLE CASE INVOLVING PETITIONER, EVEN TRAFFIC CASES ;

2/. Going thru from Superior Court and to US Supreme Court in case Defrauding Petitioner of house, bank account for $120,000, denied by US Supreme Court:

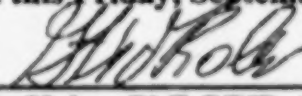
3/.Having the above staged Prejudice and discrimination as Consular Standard of US Embassy in Moscow and having US Attorney S. Cerra closing the case.

Petitioner has made this conclusion: the Law is commodity traded across the bar to higher bid. There is no such thing as principles, dignity, moral values. The Judiciary is involved in Distribution and Legalizations of 85% of the wealth to 5% of the population. The remaining 95% of the population - the plebes-are not worth any attention.

I am Petitioning for Writ Certiorari, but I am not begging you.

I declare under penalty and perjury under the laws of the State of California AND ACCORDING TO U.S.C. Title 28 § 1746 that the foregoing is true and correct .

Dated this Friday, September 16, 2005



{signature}

Nick A. Kolev PhD PE[Petitioner In Pro Se]

NO._____

In The

Supreme Court of the United States

Nick A. Kolev, PhD, P.E.(In Pro Se)

Petitioner

v.

Department Of Homeland Security,BCIS, California et al

Respondents

Represented by: Sharla Lee Cerra SB#187176

PETITIONER APPENDIX

Petitioner with Box labeled "CORRUPTION" a gift To California Commission on Judicial Performance June 2004 San Francisco

Nick A. Kolev, PhD, In Pro Se
10720 Lakewood Blvd. # 340
Downey, CA 90241
Ph:714-349-2207
Fax: 562-923-6518

PETITIONER APPENDIX

TABLE OF CONTENTS

1. US COURT OF APPEALS-9TH CIRCUIT DENIAL ORDER FOR REHEARING En Bank

2. FORENSIC AUTOPCY REPORT ON RUSSIAN U.S. MARINE Y.Y. PLETNIKOV

3. Jewish Ritual Murder OF RUSSIAN-AMERICAN US MARINE LNCPL YURIY YURIEVICH PLETNIKOV IN CAMP FOSTER-OKINAWA, JAPAN

4. US COURT OF APPEALS - 9TH CIRCUIT MEMORANDUM AND JUDGMENT (NOT FOR PUBLICATION)

5. US DISTRICT COURT ORDER OF DISMISSAL

6. US CONGRESSWOMAN L.ROYBAL-ALLARD TO US EMBASSY - MOSCOW

7. REFUSAL BASED ON PREJUDICE TYPE OF "KIZUR SHULCHAN ARUCH"

8. US EMBASSY-MOSCOW K-1 PREJUDICE

9. US CONGRESSWOMAN L.ROYBAL-ALLARD TO BCIS-LOS ANGELES

1. US COURT OF APPEALS-9TH CIRCUIT DENIAL ORDER FOR REHEARING En Bank

FILED
JUN 20 2005
CATHY A. CATTERSON, CLERK,
US COURT OF APPEALS

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

NICK A. KOLEV, P.E., Ph.D. Plaintiff-Appellant vs. DEPARTMENT OF HOMELAND SECURITY, BCIS California Service Center; et al., Defendants-Appellees	)Case No.: 04-56137)D.C. No. CV-03-07894-LGB)Central District of California,)Los Angeles))ORDER))

Before: SKOPIL, FERGUSON, and BOOCHEVER, Circuit Judges.

The full court has been advised of the petition for rehearing en bane, and no active judge has requested a vote on whether to rehear the matter en bane. *See* Fed. R. App. P. 35. Accordingly, the petition for rehearing en bane is DENIED.

The mandate issued on June 14, 2005 is accordingly withdrawn and the clerk is directed to issue the mandate seven days from the date of this order as provided in Federal Rule Appellate Procedure 41(b).

Serving the Entire United States and Canada Since 1973

LOGO MEDI-LEGAL
LOGO SERVICES
LOGO A DIVISION OF MME, INC.

STEVEN KEYSER, J.D.[1]
President

P.O.BOX 1464, EL CAJON, CALIFORNIA 92022-1464 IMMEDIATE AUTOPSY SERVICES
(619)579-2135.(800)343-2135.FAX(619)444-6473 FORENSIC,CLINICAL&PATHOLOGY SERVICES
www.autopsy-organretrieval.com LOCUM TENENS SERVICES

April 29, 1998

Ms. Galina Kolev
VIA FAX ONLY
714-364-4372

FaxeD

RE: SECOND AUTOPSY

Dear Ms, Kolev[2]:

Pursuant to our telephone conference yesterday and your telephone request earlier today, please find enclosed a copy of the pathologist's curriculum vitae for your information. I have blocked off his name.

This doctor is my first choice since he has substantial experience (over 3,000 autopsies) and has been involved in many homicide and suicide cases in his career. He is board-certified in forensic pathology. I have other pathologists available also.

As I told you yesterday, the cost of doing your case will be between $3,000.00 and $3,500-00, plus any required special studies, if any. I will do my best to keep the coat as close to $3,000.00, but it also depends on which doctor does the case. As you can imagine, our pathologists are very busy and not always available immediately.

Again, as I mentioned yesterday, the quality of the autopsy is always **adversely affected** by the performance of the first autopsy and the **extent of dissection they did.**

If you have any other questions, please let me know

Sincerely:

Steven Keyser, J.D. /Signature/

SK: mlo Encls: As noted, via FAX only.

---

[1] Dr Keyser***(Ashkenazim Keisari, Kisari, Keyserling)*** is a Legal Specialist dealing with relatives of dead military- purposely blocked Dr. Eisele experience with US Navy on his Curriculum Vitae, making a favor to US Marines.

[2] Yuriy's face was so much altered by make-up, reconstruction of the nose and coloring of his hair and eye brows in darker color, than mom, dad and sister **refused to accept it as his own** and ordered the second autopsy to check up the body.

Anatomic Pathology, Neuropathology
and Forensic Pathology

CURRICULUM VITAE

JOHN W. EISELE, M.D.[3]
P.O.BOX 86017
SAN DIEGO, CA 92138-6017
619/898-2584

Name: John W. Eisele
Date of Birth: 1-30-48
Profession: Forensic Pathologist
Current Position: Chief Medical Examiner, San Bernardino County Coroner's Office; Director of residency program in Forensic Pathology of SB County Coroner Office since 1991.
Education: University College, Dublin Ireland, 1966-71
Diploma in Medicine:M.B.,B.Ch.,B.A.O.,1971
License and Board Certifications:
California Medical License No. 039891, since May 1983.
ABP certification in Anatomic Pathology and Neuropathology 09-1989;ABP Certification in Forensic Pathology-08-1989.
Additional experience: Medical Officer employed by British Government[4] and Malawi Department of Health-Central Africa-1973/76; Internal medicine at Loma Linda veterans hospital-1983; Lecture at Loma Linda University-Physiology of Gunshot wounds-May 1992; regular speaker on: *"We tip crime fighting. Preservation of forensic evidence!"*-forensic autopsy seminars 1992/1996 in Southern California. Also specialization in infant fetal mortality, organ donation.
Autopsies performed: 250-450 forensic autopsies per Year since July 1988.

---

[3] **Dr Eisele's***(Hebrew Eizel, Eizen from Isaak)***Impressive qualifications ARE NO impediment to lie about all he was asked for:1/gunshot death***(but "bullet" part is circumcised);***2/no fractures,** *but he didn't take x-rays;***3/no broken nose,** *(but it's obvious from picture).* He was not asked for and **he provided unintentionally** all the elements of **Jewish Ritual Murder-invaluable autopsy isn't it!!!.**

Asked to perform Second Independent autopsy, he called the first military pathologist from Okinawa-Dr. Mallak and coordinated every thing from pictures to conclusions. He was not even shay or uncomfortable to inform devastated family about his matching effort. **How much is worth such a Second autopsy?**

[4] The easiness with which Dr. Eisele is moving from Gov. to Gov. assignments-Ireland-England-Malawi-USA invokes Masonic and Jewish connections.

FACSIMILE COVER PAGE

To: Galina Kolev	**Time: 16:11:44**
From :John W, Eisele, M.D.	**Date: 05/06/98**
Subject: Preliminary Autopsy Report	
Pages (including cover):	**6**

This is a preliminary copy of the autopsy report. I just talked to Dr. Mallak[5] in Okinawa. The autopsy photos should be here by tomorrow. With or without these, I do think we have all of the material we will be able to get from the body and you can go ahead with any cremation or burial arrangements you desire. Call me if you have any questions.

PRELIMINARY AUTOPSY REPORT

NAME OF DECEASED: YURIY YURIEVICH PLETNIKOV

AGE: 25 YEARS **RACE:** WHITE **SEX:** MALE

DATE AND TIME OF AUTOPSY: 30 APRIL 1998 FROM 1545 TO 1755 HOURS

PLACE OF AUTOPSY: LESNESKI[6] MORTUARY, SAN CLEMENTE,CALIFORNIA

CAUSE OF DEATH: GUNSHOT WOUND OF THE CHEST

AUTOPSY FINDINGS:

1. Gunshot wound of chest
   a. Perforation of sternum and vertebral column[7]
   b. See #3 regarding entrance wound and recovery
2. No other injuries documented
3. Complete autopsy performed prior to this examination
   a. Entrance wound ***(reportedly in chest)*** and soft tissue organ wounds ***(reportedly in heart, esophagus, aorta and spinal cord)*** excised and retained
   b. Missile (***reportedly recovered)*** in soft tissue of back and retained
4. Body embalmed arterially[8] prior to this examination

JOHN W. EISELE. M.D.

Date signed:

---

[5] Dr. Mallak's*(Hebrew Mallah, Mallach-Angel)* phone and full name never been released to Pletnikov's family. Petitioner was blocked to enter his clinic. This "Angel of Death" allegedly played the same role as Dr. Leon Steinfeld in 1955 Chicago JRM.

[6] From *Leszno* -Jewish quarter in Warsaw or Poszman, also Polish. *Lesny-forest.*

[7] Impossible for right handed man to shoot upside-down with gun blocking view in his face the heart on the left and two bones in the middle: sternum - spinal column standing on grassy hill at night.

[8] Arterial embalmment after so many days?-possible IF ONLY Blood -drained premortem in Jewish Ritual Murder.

IDENTIFICATION: The body is identified by a name tag on the right toe.

CLOTHING: No clothing is on or accompanying the body.[9]

EVIDENCE OF MEDICAL THERAPY: None.

EXTERNAL EXAMINATION

GENERAL: The body is that of a normally developed and nourished white man appearance is consistent with the listed age of 25 years. The length is 72 inches and weight is 180 pounds.[10] The body is well preserved and has been embalmed. A previous autopsy is evidenced by a sutured. "Y" shaped incision on anterior torso and a coronal incision in the scalp. Funeral makeup is present on the face[11]. Rigidity is fully developed in the jaw and extremities. Lividity is dorsal and does not blanch with pressure. The body is cold.

HEAD: The scalp is covered by short straight dark brown hair which has been shaved over the sides. In the occipital region there is a 2 1/2 x 2 inch area of punctuate[12], superficial abrasion *consistent with postmortem change*. The external ears are normally formed and located. The eyes are covered by eye caps and cotton. Removal of these reveals the globes are collapsed. The irises are brown, corneas clouded, and conjunctivae free of petechiae. *The skeleton of the nose is intact*[13]. There is bluish discoloration that *appears to represent postmortem discoloration* extending across the lower right orbital rim and bridge of the nose and extending to a small extent over the left orbital rim. No abrasion is associated with this. There is also a slight, similar discoloration over the forehead and drying of the skin

---

[9] In J R M the victim is undressed before blood drain, washed off and dressed up after. N.K. visited Kamp Foster spot on the 5th day-no rain(Okinawa dry season) no clean up on the high grass -tape and chalk marks still there. No blood on spot or clothes.

[10] Live weight about 196 lb, regardless of staffing to compensate for removed organs. Blood weight about 15 lb, so it is a mach for the difference.

[11] Huge thick layer including resurfacing of nose, filling up punctures in the chicks, repainting blueish discoloration under the eyes

[12] High stub of Moher/Schachter/Reznik/ of Head vessels-carotid, jugular

[13] Prima Facie lie - obvious from the photos nose lost shape

over the tip of the nose[14], *both of which also appear to be a postmortem change*. There is no foreign material present in the nostrils. The lips are intact. The jaws have been wired together[15]. The teeth are natural and in good condition.

NECK: The neck is symmetrical. Over the right base of the neck there is a 1/8 x 1/16 inch dried abrasion[16].

CHEST: The chest is normally formed. A prior autopsy has been performed and there is a sutured "Y" shaped incision. Extending to the left from the autopsy incision there is a 2 1/2 inch horizontal incision. This ends at a point 52 inches above the heel and 2 1/2 inches left of the *("Y" incision-N.K)*. The autopsy incision extends across the abdomen. No masses are palpable. The external genitalia are non-circumcised normal adult male. The testes are not palpable in the scrotum. In each inguinal region there is a string sutured 1/8 inch incision[17].

ARMS: The arms are normally formed. Over the radial aspect of the right forearm there is a 1/2 inch pale scar[18]. Over the flexor, proximal aspect of the right arm and medial elbow there is a 8 x 4 inch area of irregular, scattered, interrupted abrasion[19]. *This is without evidence of vital reaction*. A similar area measuring 3 1/2 x 2 inches is present on the medial aspect of the left elbow[20]. Examination of the wrists show slight wrinkling over the extensor aspects[21]; *this appears to be a postmortem change*. There are no scars. Incision of the medial and lateral aspects of the wrists reveals *no evidence of hemorrhage or other injury*. Over the extensor aspect of the proximal phalanx of the right middle finger there is a 3/8 x 1/8 inch pale scar[22]. *No*

---

[14] Dry because cooked with organic fillers

[15] Typical for J R M to block the mouth, rip off the tongue-not mentioned here

[16] Middle stub of Moher/Schachter/Reznik/ of Major arteries-right subclavian, right carotid and veins-external, internal jugular. That's why aorta and esophagus are removed, if downward blow - aorta, heart-that's why they are also missing

[17] Suspicion to be part of torture-Not typical forensic procedure.

[18] Postmortem JRM Crucifixion(In Modum Crucis) **right hand nail** - filled/glued

[19] Tied up with pointed sharp surface to **hold arms straight** for blood circulation

[20] Tied up with pointed sharp surface to **hold arms straight** for blood circulation

[21] Possible plastic hand cuffs

[22] Postmortem JRM Crucifixion(In Modum Crucis) **left hand nail** - filled/glued

needle punctures or tracks are noted. The nailbeds are cyanotic. The fingernails are irregularly trimmed[23], *consistent with prior evidence collection, but without evidence of foreign material.* No gunshot residue is noted on the hands[24].

LEGS: The legs are normally formed. Over the anteromedial aspect of the left upper leg there is a well demarcated 2 1/2 x 2 inch, rectangular area of pallor and slight depression[25]. *This may represent a premortem scar or an embalming artefact.* Over the lateral aspect of the right knee there is a 1/4 x 1/8 inch abrasion[26]. Incisions of the lateral and medial ankles reveal *no evidence of subcutaneous hemorrhage*[27]. There are no pressure marks of the ankles. Over the anteromedial aspect of the junction of the right foot and ankle there is a 2 x 1/2 inch area of irregular abrasion[28] which *appears to be postmortem and is consistent with insect activity.* On the corresponding area on the left there is a 1/2 x 1/8 inch area[29]. *Incision of the soles of the feet reveals no hemorrhage*(See[23]). No edema is present.

BACK: The back is normally formed. In the midline of the lower thorax there is a 3 1/2 inch sutured incision[30] covered with an embalmers pack. **Reportedly** this was the bullet recovery site. This is cen(ter) of the midline. Over the right lumbar region there is an area of punctuate abrasions[31] which *appear to be postmortem*, and over the posterior right upper leg and popliteal fossa there is a 10 x 2 inch area of widely scattered abrasions[32]. Similar lesions are scattered over the posterior left upper leg and popliteal fossa and lower leg in a 12 x 2 inch area[33]. Incision of these areas shows them to be dried *very superficial lesions without underlying hemorrhage.* (See[23]).

---

[23] Cut to increase suffering, to co . r up punctures, important element of JRM

[24] **Sign blowing up suicide theory**-very important!

[25] Sign of tying him up

[26] Torture mark

[27] Socking, blanching and bleaching the body for 12 days is not going to show up any hemorrhages. Forensic pathology has it's own dirty secrets

[28] Postmortem JRM Crucifixion(In Modum Crucis) **-right foot nail**

[29] Postmortem JRM Crucifixion(In Modum Crucis) **-left foot nail**

[30] Contradicts his initial note 3-spynal cord removed b/w T5/L2-about 8 inch, not 3 1/2 inch

[31] Consistent with No.15,16 - any movement painful-same tie up with hands

[32] Tied up with hard sharp surface to **hold right leg** straight for blood circulation

[33] Tied up with hard sharp surface to **hold left leg** straight for blood circulation

The anus reveals no evidence of trauma or foreign material. Anal swabs and smears are taken at this time.

INTERNAL EXAMINATION

BODY CAVITIES: The cavities are entered through the prior incision. Embalming powder and fluid are present between the flaps and rib cage and within the body cavities. **The chest plate has been removed through the costal cartilages and the intercostal muscles incised**[34]. The organs have been reduced to fragments which for the most part measure no more than 3 inches in diameter[35]. Portions of all organs are recognized and show no notable lesions. Of note, only a small portion of the heart is identified[36]. The muscle surrounding the entrance wound has been excised to the level of the ribs[37]. No foreign material is noted here[38]. Sections of skin and muscle from this area will be examined microscopically. The abdominal fat and chest wall are otherwise unremarkable.

The thoracic spinal column has been removed from the T6 through L1 portion and the segment is present in the body[39].

The neck has been packed with cotton[40]. This is removed(?!?) and swabs are taken from the oral cavity.

The gunshot wound is recognizable only as a defect through the sternum at the level of the insertion of the fourth rib[41]. This measures approximately 3/8 inch in diameter anteriorly and 3/4 x 1/2 inch posteriorly. A defect is also present in the resected segment of the spinal column at the T10 level[42]. This passes through the vertebral body and into the spinal canal. The defect continues through the neural arch to the previously described incision in the back.

MUSCULOSKELETAL SYSTEM: No fractures are identified except those associated with the gunshot wound[43]

---

[34] Impossible to guess where the bullet entered-*per say* sternum at 4th rib-cut off
[35] They were damaged/hemorrhaged when he was butchered
[36] Taken for ritual purposes, or if undamaged as transplant
[37] Because it was punctured in the final blow
[38] The gun powder was supposed to penetrate deep under the skin
[39] How Dr. Eisele. had guessed it, if it was removed-See Note 34
[40] See Note 11-the high blow area of Moher/Reznik/ circumcised
[41] See Note 34-It is a guided guess. He copied opinion from Okinawa
[42] See Dr. Eisele Note 3-in removed area. He copied opinion from Okinawa
[43] Most probably true-but without x-ray no confidence

There is no osteoarthritic spurring of the spine and no increased fragility of the ribs.

With allowance for embalming the skeletal muscle has its usual color and texture.

HEAD: Reflection of the scalp reveals diffuse purplish discoloration over the anterior portion[44] but *no evidence of discreet hemorrhage*. The calvarium is intact. The calvarial cavity is packed with cotton, a hardened granular material and a pasty light brown material. Reres and *no orbital roof or petrous ridge hemorrhage*. The dura has been removed revealing no fractures. The pituitary and proximal spinal cord are intact.

SPECIMENS RETAINED

TOXICOLOGY A sample of liver is retained for possible toxicology.

SEXUAL ASSAULT EXAMINATION: Two swabs and one smear are taken externally from the anus and internally from the oral cavity and retained.

HISTOLOGY: Sections submitted for histology are enumerated bellow. Portions of all organs as well as the bony portions of the gunshot are retained for stock.

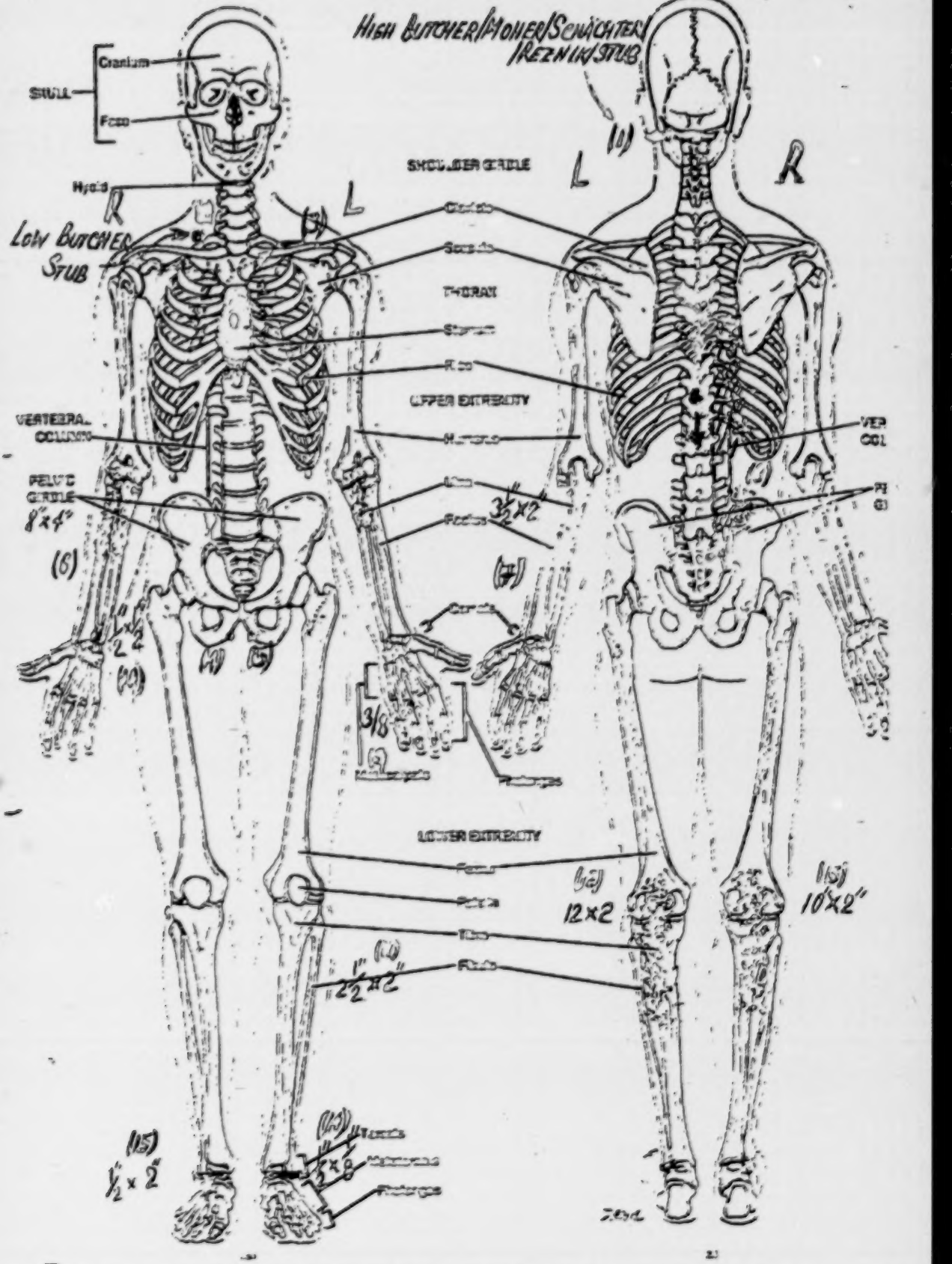
PHOTOGRAPHS: 35 mm photographs are taken by myself.

X-RAYS: No x-rays are taken.

NK Note: - Dr. Eisele findings are very important because he was unaware of Jewish Ritual Murder, but his conclusions are questionable because of his origin and closeness to military and sheriff-coroner's office. They are made in Italics-a desperate attempt to prove no fight.

Even if Dr. Mallak-Okinawa version is accepted, the final stub(not gunshot) was done by a professional Moher/Reznik/ from below upward, while body hanging upside down for legs and arms-a cut in the middle of sternum(4th rib) heart and middle of spinal cord (T10)-a precision of surgeon.

[44] Rolling in **JRM wheel barrel** for scalding-blood coming to skin


HIGH BUTCHER/HOHER/SCHÄCHTER/REZNIK/STUB
LOW BUTCHER STUB
SKULL
Cranium
Face
SHOULDER GIRDLE
THORAX
UPPER EXTREMITY
VERTEBRAL COLUMN
PELVIC GIRDLE
8"x4"
3½"x2"
LOWER EXTREMITY
12x2
10x2"
2½"x2"
½ x 2"
L
R

TERMINOLOGY-FORENSIC PATHOLOGY

Abrasion - wearing, or rubbing away
Anterior - front view
Calvarium- vaulted upper portion of the cranium
Edema-a morbid accumulation of serous fluid
Extensor-muscle opening a joint
Flexor-muscle closing a joint
Inguinal-pertaining, or near the groin
Lesion - damage, injury
Lumbar-pertaining to, or near the loins
Occipital - the hindmost bone of the skull b/w parietal/ temporal bones
Parietal - pertaining to a wall, forming a wall
Petechiae-purplish spots on skin
Petrus ridge—hard portion of temporal bone
Popleteal fossa - shallow depression, or cavity
Posterioir-rear view
Smear - sample, trapped for microscopic analysis B/w two glaces.
Subcuttaneos hemorrhage - situated, applied beneath the skin
Sternum - the breastbone which forms the ventral support of the ribs
Suture-the junction of two contiguous surfaces by sewing

III. Jewish Ritual Murder OF RUSSIAN-AMERICAN US MARINE LNCPL YURIY YURIEVICH PLETNIKOV IN CAMP FOSTER-OKINAWA, JAPAN

1/. PESACH-SHENI-THE SECOND PASSOVER Saturday April 18th, 1998 WAS THE ORTHODOX EASTER NIGHT and The twenty second day of the month of Nissan year 5758 - *Pesach Sheini*, the "Second Passover." When the Holy Temple stood in Jerusalem, this day served as a "second chance" for those who were unable to bring the Passover offering on the eve of the "first" Passover. We commemorate the date by eating **matzoth.**

Torah relates the circumstances that led to the institution of the Second Passover. In the year 2449 from creation (1312 bce), *G-d spoke to Moses: Any person who is contaminated by death, or is on a distant road, whether among you now or in future generations, shall prepare a Passover offering to G-d.*(Numbers 9:1-12)

The eternal significance of the Second Passover, says Lubavitcher, Rabbi Yosef Yitzchak Schneersohn (1880-1950), is that it is never too late to rectify a past failing. because s/he has been "contaminated by death" or "on a distant road" from his people and G-d, there is always a Second Passover, thus represents the power of ***teshuvah*** -- the power of return as repentance,

*They asked Torah, and Torah replied: "He shall bring a guilt-offering and he shall be forgiven."They asked G-d, and G-d replied: **"Let him do teshuvah and he shall be forgiven."***(Yalkut Shimoni, Tehillim 702)

An entire tractate in the Talmud (*Pesachim*) details the hundreds of laws that apply to the Passover offering: the original Passover observed by the straight and true, and the Second Passover established for the *baal teshuvah*, the returnee, the one who strays from the natural course of his soul and then rebounds with a thirst for life that only those who have wandered in a deathly wasteland can experience. In this sense, the Second Passover is "a festival in its own right" particularly suitable for Jewish military

2. THE BLOOD LIBIDO OF JEWISH RELIGIOUS LAW

The best explanation of tradition initiation is produced by V. Dahl on p. 15 linking it to rabbi Ravashe and holy book "Rambam""*Every negative subject could be eliminated by ritual application of another subject from the same nature*"-Cristian hostility atoned by Christian blood.

a). TORAH.*A genuine instance of human sacrifice in II Kings 3:27, The king is under attack by the Israelites and: "Then he took his eldest son, who was supposed to succeed him as king, and sacrificed him as a burnt offering on the wall. Then a great anger came against Israel, and they withdrew from him." In II Judges 2:27-40, Jephtha sacrificed his daughter. In I Kings 16:34 A genuine building-sacrifice " Hiel of Beth-El built Jericho. It took of him his eldest son Abiram when he laid the foundation and his youngest son Segub when he set the gates. Psalms 137"Happy is he who takes their little ones and dashes them against the stones."*

"For the life of the body is in the blood, and I have given it unto you upon the altar, that your souls might be reconciled by it. For the blood is the atonement, because the life is in it" (Leviticus 17:11). In a very rare and little-known book by Rabbi Chaim Wital, Ets-Chaim (XVII Century), we read that "the murder of goys and the drinking of their blood increases the holiness of Israel for the Jews."

18 November 1913 Vatican rendered its expert opinion of Jewish ritual-murder: "It is to be regarded as proven that it is an old Jewish custom to murder Christian children at Easter time." found in the Vatican Library.

b). THALMUD/KABBALAH

" Take the life of the non-Jews and kill them, and you will please the God the same as one who offers incense to him " Sepher of Israel, 177b." Every Jew, who spills the blood of the Godless (Non-Jews) is doing the same as making a sacrifice " Bammidber raba & Jaklut 772." He

who sheds the blood of a non-Jew is offering a sacrifice to God "

Jalqut Simeoni." It is permitted to take the body and the life of a non-jew " Sepher ikkarim III, c, 25"Even the best of the Goim should be killed." Abhodah Zarah 26b, TosephothPsalm 44:22 refers: 'Yea, for thy sake are we killed all the day long; we are counted as sheep for the slaughter.'"Thikunne Zohar, ed. Berdiwetsch, 88b

*The **Cabbalistic Zohar** (Shining Light) directive for ritual-murder. Dr. Bischoff: "Further, there is a command of slaughtering, which takes place in a ritually valid manner for strangers, who are not human beings but are like unto cattle.*

The Talmud passage Kethuboth 62a, where the slaughtering (germ. schachat) of a boy on Passover evening is discussed.

3. CONTEMPORARY CASES OF JEWISH RITUAL MURDER - *According to Interpol, more than 100 known ritual murders take place every year in the US, Canada and Western Europe. They range from human sacrifice to heart attacks brought about by invoking the devil.*

***USA** Each year an estimated 2,500 children in the United States disappear and later are found murdered (with their blood drained, in an apparent Ritual Murder case).*

A deputy chief of CIA committed suicide in Washington. The verdict was "over-work," thereby concealing a terrible tragedy.

He had suffered a fit of remorse over discovering that he had inadvertently been responsible for the murder of many Christian children in the Jewish religious ceremonies. CIA was sixty percent Jewish. Most of the Jewish agents traveled around the world with unlimited expense accounts, staying at the best hotels, a la James Bond, while they carried out spy missions for Israel, with the American taxpayer footing the bill.

The Christian's special talent was a gift for picking up boys who could be used as homosexuals for the pleasure of foreign officials. At least, that was what he had been told, and he saw no reason to suspect otherwise, for the use of boys in

international espionage was an old story, and most governments employed them at one time or another in order to blackmail high-ranking officials of other governments.

In the early evening hours, this CIA official would stroll downtown, strike up a conversation, he would bring the boy to a hotel room, where he would turn him over to another agent. This CIA official would then leave, after promising the boy a sum of money, usually about twenty dollars.

During the period from 1947 to 1952, this CIA official picked up eighty-six boys on the streets of Paris and Vienna. He heard nothing from any of them.

In 1963, a Jewish agent in CIA Washington, asked him if he would pick up a boy for him. He refused, saying that he did not have to engage in such activities any longer. The Jew then astounded him by saying that since he already had eighty-six murders on his conscience, one more wouldn't hurt him. He could not believe that Deputy did not know that every one of the boys had been used as a victim of a Jewish ritual murder, and he described for him the entire ceremony. The Jew ended up by threatening him, if he did not get him a boy for a ceremony planned for the approaching Passover holiday, he would be exposed. The gentile went home that evening, and collapsed with a complete nervous breakdown, from which he never recovered.

***CHICAGO**, In October of 1955 four White children, two young boys who were brothers and two teen aged sisters, were abducted and murdered in a manner which was suggestive of Jewish ritual sacrifice, the Schuessler boys and the Grimes girls. Both cases remain officially UNSOLVED MYSTERIES*

Both the boys, aged six and eight respectively, and the girls aged thirteen and fifteen were found nude, and yet none had been sexually assaulted. The corpses showed ligature marks on the wrists and ankles, indicating that they had been tied or restrained. All the victims had been tortured with mostly small, shallow cuts and puncture wounds, none sufficient to cause death of itself.

The official cause of death was listed as blood loss ". Two boys had been transfixed through the hands, wrists,

and feet by larger weapons similar to nails or a carpenter's awl, inflicting wounds very similar to the so-called stigmata, the wounds of Christ.

Chicago Daily News published an afternoon edition ritualistic nature of the wounds and speculating that members of a "religious cult" might be involved. Within ten minutes of the edition hitting the street, trucks were sent out to bring them all in; all copies were ripped off the new stands.

Mrs. Lyle Clark Van Hyning who published Women's Voice. called to ask why the paper had been recalled then she sent the boy's father, a copy of Arnold Leese's work ***Jewish Ritual Murder.***

Schuessler read the booklet and was stunned by what he learned. He then demanding that the possible ritual murder be investigated. The Cook County Sheriff Sam Lohman a Jew, placed Mr. Schuessler under arrest on suspicion of killing his own children. He took a lie detector test which completely cleared him, as well he had an ironclad alibi.

Instead of releasing him, he was committed to a private mental institution in Des Plaines, Illinois operated by a Dr. Leon Steinfeld., where he died the first day after el.shock. After the inquiry, Leon Steinfeld flew to Switzerland for a "rest cure" and one morning was found hanging in his hotel room, an alleged suicide. Jewish newspaper columnist Irv Kupcinet established a "sympathy fund" and shortly thereafter presented Arnold Schuessler's widow, the mother of the murdered children, with $100,000 raised from Chicago's Jewish community an immense sum of money in 1955-56.

Arnold Leese was provided with massive information, including the inquest, and he was at work on one of the best documented Jewish ritual murders in modern times when he suddenly died in the spring of 1956.

AUSTRIA 1997. *The Anderl von Rinn ritual murder has been maintained in Austria since the 17th century. On December 5th, 1997 Prof. Robert Pranter, a lecturer at the Heiligenkreuz Theological Academy, published in*

"Zur Zeit" (Andreas Molzer), the ritual murder accusation, and indirectly, Jewish guilt for the death of Jesus. Based on "Zur Zeit," 5-11 December 1997, "Der Standard," 20 December 1997, and press releases of Dokumentationsarchiv des osterreichischen Widerstandes, Vienna, 18 December 1997.

RUMANIA 1995. *The ritual murder charges survived in different forms up until nowadays in Austria, Czech Republic, Hungary, Poland, Romania etc. In (1990-1992), Romanian magazines Great Romania, Europa often referred to it. Most interesting case took place in 1995. Several Romanian periodicals claimed that a network of Israeli slave dealers bought babies (aged 7-12 months) in Bucharest and Iasi in order to get them illegally over the border. One baby cost $ 1.000 and was sold for $ 15.000 in Israel.*

Barricade magazine launched the bomb: "covered by the Mossad", "the Jewish slave dealers' Mafia" got "the little Romanians" illegally over the border. Once in Israel, they were killed "for their blood". It caused the burst of diplomatic scandals between Romania and Israel.

BELARUS 1997. *On July 27, 1997 (All Saints Day), Belarussian state television broadcast a documentary about the life and death of Saint Gavril Belostoksky. It was invoked that Jews had killed the child to use his blood in the making of Passover matzoth. The people of Belarus were told this story as a historical truth. In the Byelorussian Orthodox church calendar of 1994 on pages 98-99 the life of the martyr Gavril is described, open accusation against Jews of the boy's ritual murder*

Among the journals that have propagated the ritual murder were Soviet Belarussia and the Orthodox Church's Tsarkoinae Slova (Word of Church), which in 1992 advised its readers to "be aware of cruel cults, where human sacrifices are being practiced" and identified Hasidism as such a cult.

RUSSIA *In December 2004 after Christmas celebration a "Letter of 500" Academicians and Intelectuals also including 19 members of Lower House was send to*

Russian Duma-the Parliament asking prohibition of more than 300 Jewish organizations in Russia condemning Judaism as Anti-Christian, even linking the religion to Ritual murder and banning of "Kitzour Shulchan Aruch" of Joseph Caro as racist book.

In March 21, 2005 Second Petition of Church Minister K. Doushenov named: Jewish Happiness, Russian cry" was sent to Russian Attorney General V. V. Oustinov demanding to stop Court trials of Russian Patriots accused of anti-Semitism. The Petition signed by 5,000 activists is citing few cases of Jewish Ritual Murder and the book of V. Dahl.

In August 2005 RusPravoslavnaya-church newspaper published on his side/www.ruspav.ru/2005/7-8/20.htm: Ritual Murder of children-Horrible reality of our times" The killing of 5 children in April 2005 before Jewish Passover. On April 16th 2005 Five/5/ boys age 10-12 have disappeared in Krasnoyarsk and their bodies were found only May 8th in sewage collector. The Governor of Krasnoyarsk-Alexander Hloponin-a Jew, refused to consider a murder. According to Media information Xeno.sova-center.ru their killing have all elements of Ritual Murder. May 29, 2005 a public demonstration took place on Poushkin Place in Moscow. The participants signed resolution addressed to Attorney General of Russian Federation asking in this investigation to look for elements of Jewish Hassidim Ritual murder accusing Gov. A. Hloponine of hiding the truth. Doubts about ability of Jewish Governor A. Hloponin to look independently in this inquiry prompted many members of the Duma, including President V. Putin's party representatives to consider a Special Counsel investigation. The Society emotions are flying high after Beslan terrorist Act and murder of Russian adopted boy in Chicago considering the Verdict to American adoptive mother provocatively soft.

In July 2005, on Russian web:tradicia-ortho.ry/07.2005/sinergia was reported a Ritual Jewish

killing of 2 year old boy Evgeniy in Bryansk Gubernia taking place in 1994.

Former President of Harkhov Jewish Community-E. Hodos published in 1999 "Ax over Orthodoxy, or who killed Father A. Man", a Jewish priest dreaming of Jewish Orthodox Church. E. Hodos accused Habad-Lubavich movement in Ritual killing of the priest..

V.I. Dahl [(1801-1872) Dahl is Russia's equivalent of Noah Webster. His dictionary, in the original edition, is still in print and in wide use today. In connection with ever-increasing reports of mysterious crimes in Russia's western gubernii, where the hasidim were particularly active, Dahl published in 1844 a stunning document under the aegis of Minister Sazonov: "Investigations of Murder of Christian Children by Jews and the Use of Their Blood", and contained descriptions of 136 proven incidents in various countries over the centuries.

Anti-Globalist: Yuri Vorobyevsky: published book "Path to the Apocalypse: Their Name is Legion: Volume III. Chapter 11 ***Their Name is Legion Ritual Murder: Myth or Reality?*** *He is citing Z. Sheinis book* ***"Provocation of the Century"*** *where Galina Martysheva Social Sciences Academy graduate of "Pravda" news with her husband Andrey Zemskov, shared how in Spring of 1953 upon his return from the Byelorussian capital he recounted how the Jews of Minsk prepare for Passover: "They killed Russian children and made matzoh using their blood." This conversation took place in my wife's presence, and since she's an Armenian with a Russian mother they were completely frank with her.*

In 1996 Moscow Botanical Garden, a favorite spot for Satanist gatherings a 17-year old girl was strangled for refusing Satanist ritual. At the beginning of the 90's society was shocked by the murder of a schoolgirl in Cherkessk. The young people who committed it did so in an attempt to call up the devil of Temple of Seth(7)

ITALY 1996. *May 30 Rome daily Il Messaggero, by Gilberto Scalabrini drew parallels between the murder of*

4-year-old Simone Allegretti, near the central Italian town of Foligno, and two ritual murder cases in 15th-century Italy. "From History, Chilling Similarities with the Murder of Simone." A subhead read: "Monster of Foligno, the Hypothesis of Ritual Murder." The article mentioned the 15th-century cases of Simon of Trent, in northern Italy, and Antonuccio of Bevagna, a town near Foligno, in Umbria.

Rome, Italy -- Italian and Russian police, broke up a ring of Jewish gangsters Three Jews from Russia and eight Jews from Italy were arrested after police discovered they had been kidnapping non-Jewish children between the ages of two and five years from Russian orphanages, raping the children, and then murdering them on film. Mostly non-Jewish customers, including 1,700 nationwide, 600 in Italy, and an unknown number in the United States, paid as much as $20,000 per film to watch little children being raped and murdered.

POLAND *The first anti-Jewish pogrom after WW II caused by ritual murder accusations occurred in August 1945. Leaflets on the streets of Cracow proclaimed: "The Jews are our eternal enemies. They kill our children in their synagogues. "The synagogue was set on fire and the Torah scrolls desecrated. The riots spread to Sosnowiec and Lublin. The number of victims is not known as the riots were never officially reported.*

1946 Kielce pogrom was the worst of ritual murder charges causing emigration of 100,000 Polish Jews and blocking another 200,000 in Germany. A nine-year-old Christian boy, Henryk Blaszczyk, said that he was kidnapped by Jews and kept in a cellar where he saw 15 other Christian children already murdered at the house on 7 Plenty Street.

Among the occupants of this house was the Kielce Jewish Committee, In a wild fury some broke into the building and any Jew they were able to drag outside was beaten or trampled to death. Half the Kielce population of 50,000 took part in this pogrom resulting in 42 deaths and more than 80 injured.

The Catholic Church officially refrained from commenting. The archbishop of Kielce refused to condemn the pogrom. In 1990, Gazeta Wyborcza a leading Warsaw daily published an extensive analysis of the events in Kielce entitled "Kill a Jew."

BULGARIA *Compared to other areas in Europe, Bulgaria has never had a great amount of anti-Semitism, but it has not been unknown. In 1937, a Jewish journalist, Buko Piti, published a book of statements of some one hundred and fifty leaders of Bulgarian society denouncing anti-Semitism and proclaiming the reasons for its absence in Bulgaria.In the nineteenth and early twentieth centuries, several pogroms caused by rumors of ritual Passover execution (N.K. - Ritual Murder) occurred in Bulgarian cities and villages. The most infamous was that in Pazardzhik in 1895, but there were others, including Sofia (1884), Vratsa (1890), Lom (1903), and Kiustendil (1904).*

4. YURIY YURIEVITCH PLETNIKOV CASE OF APRIL 1998 PASSOVER/PESSAH-

His service address was: Marine Corps. - Okinawa, Japan 3d support Battalion 3d FSSG Unit 38412 (MT) FPO AP 96604-8412 under Lt. Colonel M.E. O'Neil.

The plan *In almost all cases, the victim is surveyed and selected in accordance with a plan. In* ***Tisza-Eszlár*** *the "lot" was tossed upon the child of a widow living in the most penurious conditions. In* ***Corfu*** *the foster child of Chaim* ***Sarda****, Maria, had never been entered into the Register, and if her kidnapping had not been noticed, she could have been eliminated without attracting much attention. Ernst* ***Winter*** *was surveyed by his Jewish dance class acquaintances in* ***Konitz****; this victim seemed particularly suitable, since the parents lived outside the area and could not immediately order inquiries. Little Andrusha in* ***Kiev****, in order to procure powder for the gun presented to him by Jews, ran into the clutches of his slaughterers.*

The blood tax Cited by Leon Polyakov and V. Dahl - **aliloth seker-blood calamities** ,according to Dahl every year

before 15th Shaiviat collected from everybody over 13. Some European authors before WW II are insisting of existence of "Blood Dealers" and network of distribution.

The Army is a perfect place were all records, bank statements, correspondence with relatives could be surveyed and analyzed without violating the civil rights Laws and Privacy rights Laws of a person *Superintendent of schools in California is a Satanist. Michael Acquino, head of the Church of Set in San Francisco - was a lieutenant colonel in the Army Reserves in charge of records for all Army Reserve personnel.* ***Acquino has top secret clearance and lectures at Fort Bragg, N.C. as well as other Army bases.*** *He was twice under investigation for ritualistic sexual child abuse at the Presidio in San Francisco. An adult survivor who's father was in the army told that the U.S. Army is Satan's army, because of the numerous Satanist in the Army.*

Yuriy has just a-**step sister Galina** sharing the same mom, she was living for 7 years separately in USA, the **mother Anna A. Lifanova** overstayed her tourist visa - was working as house wife in **Russian-Jewish Family**-undocumented, uneducated; the **father Y.N. Pletnikov**-maintenance electrician is back in Russia; the **Brother in Law N. Kolev**-Civil Engineer is not even Russian-he is Bulgarian.

The family of new immigrants could not afford good attorney and lengthy litigation. The ONLY Law Firms/attorneys able to take legal malpractice, Government tort cases are 95% Jewish. Yuriy is very proud, private man unfamiliar with American culture, being less than 2 years in USA. Most of Military friendships are built on ethnicity, city of origin, drinking or womanizing. None applies to Yuriy. Just the opposite-most of the servicemen, including officers are trained on potential enemy-the Russians, majority servicemen are men of color, who stray away of the over 6 ft tall, athletic, blond, blue eyes Russian.

So Yuriy is a lone dove-lacking a serviceman buddy, or girlfriend who could investigate after him, ask questions, witness what happened. His assignments as a driver require sometimes to leave at 2. a.m. to take servicemen to shooting range. So if he disappears for a night, or during a day-most

probably nobody would question that.

The **Congressman Ron Packard**-48th District is a Mormon.(N.K.-For people unfamiliar with Mormon Faith Schism: according to 13 faith differences, stated in a booklet given to everybody in downtown Salt Lake City - Mormons recognize Jewish people as chosen and they work to build Second Jerusalem in America. Also Congressman R. Packard is a veteran military dentist, his District is split in the middle by the Prime training ground for US Marines-Camp Pendleton, part of his vote is coming from military families in Oceanside, he is ranking member of Military construction including Okinawa. He is recognized by Colleagues to promote and reward chaplains in the Army.***(N. K. about him):***

Definitely Mr. Congressman you were more honorable for us before to ask you for help. You denied to help for 10 days. Like every tricky politician you set-up a practical system - The people calling from the North half of the District have to be served in the office in the South half; The People in the South half of the District have to be served in the North office. So, you never see them.

Your help as a Congressman is quite important in specific part of human misery. Very often the constituents guess if you are going to step on them, or you are going to help them. I know you are busy to play golf and to go to Lincoln Club, but you can not be ignorant.

I know, if the dead Marine was the only son of a wealthy businessman contributing a lots of money for your election campaigns you will go in person and the media will cover your ride for justice from A to Z, but unfortunately for us this is not the case.

May be for you is some kind of perverse filling to show a sympathy to a dead Russian Marine? - You are a conservative Republican.

In this particular issue Honorable Congressman, is not clear for us, if you represent the people's interests, or the big Government interests. Do you fill like a parent when you talk to the parents or, forget for them - they are Russians. I know you are busy to play golf and to go to Lincoln Club.

How about their son who was an outstanding US

Marine guarding this country and its principles? The officials just have to say to the parents of Lance Corporal Y. Pletnikov: ***Thank You very much to make It quick from Russia! Here is your souvenir! The body bag with your son. Have a nice trip back home!***

The President-B. Clinton*(N. K. about him): How cheap you look Mister President in the eyes of these simple Russians, who don't know even a word in English. How cheap is your UC San Diego address, when you said theatrically up front of the entire world, make sure a full media coverage: We are the Nation of Nations and this Administration will work hard to prevent the violent hate crime".* ***You Mister President failed to protect the people who protect you - the beautiful young men in US Marine Corps uniform. They are not too far from you. Just look behind the corner of the White House; or at the window.***

Secretary of Defense -W. Cohen is Jewish, *You the person with such an ethnic name, you should know something about the Holocaust? How about the Holocaust in your own military rang and file?*

Do you have a Program to recycle your psychopath veterans? I know the Department of Defense does not have a record to save, or recycle any thing. You just waste, you are great in wasting - wasting money in bogus weapons, wasting money in huge apparatus of professional liars, cover-ups and fake witnesses to deceive the public opinion about the Holocaust under you.

Wasting the life of the best and the brightest, just because they were so naive to enlist under you and keeping the murderers inside is cannibalism. At the end of the 20th Century! Somewhere in Central Africa? No! - in the country pretending to be the leader in democracy-USA?!?!

Also are **Secretary of State-M. Albright** and all 3 National security Advisers to President:**Samuel Burger** *(Burg short for Baruh)*; **J. Steinberg; D. Kerkick***(Hebr. Kejrick-bald; Ker(G)-moving, turning)*

Secretary of US Marine Corps-Brig. Gen. C.C. Krulak*(Krulyak-Grodno, Zhitomir; Kryglyak-Polotsk, Cherkassy, Kiev)* heir of Russian Jews driven out by "Pogroms".

If does not sound enough Jewish his wife is Zandi Meyers. **David Brant***(Brant(Germ.)-firebrand, shining sword)* is Jewish - Special Assistant for Naval Investigative Matters and Security.**Director of Naval Intelligence-Rear. Adm. L.E. Jacoby** *(Bibl n. Jacob-Gen 25:26)* is Jewish too. Public Relations-HQ/USMC **Major Owermahle***(Yiddish Machles → Yechiel))* is Jewish too. **Director of CIA- G. Tenet** *(Hebr. Tene, Tenne for Netanel)*

Secretary of the Navy John H. Dalton-a banker from Little Rock and Mason holding Chairman and CEO positions since he left the Navy in 1969 for different semi-private banking and lending institutions. Under heavy Jewish influence. What he could thing about a murdered Russian US Marine-the same year he initiated Cold War Recognition Certificate. Resident Agent for US Naval Criminal Investigative Services(NCIS) is Edward*(Hebrew Eliezer)* Kunigonis-Lituanian Jewish. The analyst from NCIS is PhD Michael J. Devine (Devine is English equivalency of Levit). First autopsy in Okinawa-by Dr. Mallak*(Hebrew Engel)*This Engel of Death allegedly is running conveyor for Jewish Ritual Murder in Okinawa. N. Kolev was blocked to enter the clinic, where he performed the autopsy. In Yuriy's case he played the same role as Dr. Leon Steifeld in 1955 Chicago Jewish Ritual Murder.The Second autopsy is performed by Dr. Eisele *(Hebrew Eizel, Eizen from Isaak)* in Lesneski*(Leszno-- Jewish quarter in Warsaw, Posznan)*Mortuary at 640 S. El Camino Real, San Clemente, CA. The Attorney General in California is and still - Bill Lockyer - could not confirmed, but allegedly Jewish is due for reelection in the same 1998. The District Attorney in Orange County, CA: Michael Capizzi is running the Fifth Largest DA office in USA with 1,200 employees, 250 attorneys, 200 investigators, more than 30 percent of them are Jewish.

On the Russian side-this is the Time of Golden rush - the Wild privatization of Russian Jewish Oligarchs Berezovsky, Hodorkovsky, Gousinsky around President B. Elzin. All faxes and letters to Consul General Koutyavin-Washington, DC and Consul General Y. V. Popov-San Francisco are answered by Russian Jewish Consul V.R.Abramov*(Hebrew Avraam)*.A number of Russian media

journalists in USA were contacted, but nobody had the courage to write about this case.

Victim quality. Ancient Magicians, that any living being is a storehouse of energy varying in quantity according to the size and health of the animal, and in quality according to its mental and moral character. For the highest spiritual working one must accordingly choose the victim which contains the greatest and purest force. A male child of perfect innocence and high intelligence, is the most satisfactory and suitable victim. A homeless could not be Ritually killed with the same result.

Yuriy's qualifications. The quality of blood depends of the physical condition and the moral strength of the person. Yuriy is an athlete, a body builder-height 186 sm(6 ft 2 in). in top 2% between over 90, 000 military personal in Okinawa(300 p.f.t points). His moral character-a Russian who never drunk a drop of alcohol, no stories with women, we believe he was virgin. Yuriy is Russian Orthodox Christian -who actively studies the bible, he attends the services in the Orthodox Chapel, built by Russian POW in Japan after 1905 war.

He is loving son, who cares sending money and calls his father in St. Petersburg(Russia) and his mother in Irvine(California). He had to overcome an ocean of Cold war prejudice about America in order to enlist in US Marine Corps. At the same time he is economic not political immigrant and when asked by his superiors to compare the two armies(Yuriy served in Russian Air Force Base in Koubinka under Moscow) he refuses it as an unfair propaganda.

He is psychologically and morally very, very stable. In San Diego booth camp the new recruits were tested how they would accept combat assignment in Iraq, asking who couldn't do it to step ahead. Yuriy wasn't between them. He was 24 when he entered USMC, while most of the servicemen are 18-19 year old. Also he had served already two years in the Russian army.

How it happened.

Thursday afternoon-04/16/98, or may be Friday afternoon-04/17/98 Yuriy was called for check up or pick up in Evens clinic-Camp Foster-When he entered 3-4 people jumped

over him-he was tied up and undressed with mouth blocked up.

For evocations it would be more convenient to place the blood of the victim in the (Jewish) Triangle - the idea being that the spirit might obtain from the blood this subtle but physical substance which was the quintessence of its life in such a manner as to enable it to take on a visible and tangible shape

Mandatory torture. Gruesome tortures precede the actual slaughtering. In the **Trent** ritual-murder trial of **1475**, the Rabbi **Samuel** testified that it is necessary that the victim **give up the ghost while being tortured**; otherwise the blood is no good! (*Est necesse, quod ille puer moriatur in tormentis; aliter ille sanguis non est bonus.*) [It is necessary that that boy should expire in torment; else that blood is not good.] In this case the victim, "*ille puer*," the boy **Simon**, was stabbed with needles and portions of his flesh were ripped away with tongs while he was fully conscious, at which [events] they spoke and sang in Hebrew: "So may all the enemies of Israel be destroyed. . ."

Yuriy fingernails were trimmed over the flesh, his arms and legs were tied up with hard plates-10 to 12 inch long by 2 inch, having needles inside to make him suffering and to prevent him under pain to flex his arms, or his legs.(See Chicago case for sharp belt-stigmata type punctures)

Barrel use After that he was rolled over in a barrel for a while scalding his body to red to increase the blood circulation. *(See Autopcy-head and V Dahl, Oleg Platonov publication)*.

Lyutostansky,[*The Jews in Russia*]), the Polish Jews also employed so-called rolling barrels in order to obtain the blood of their victims. The victims, mostly children, were tied up and then rolled back and forth for a long time in barrels with other sharp objects, until the body scalds.V. Dahl is citing different construction for barrel for men and women

Mounth gagged "And your death shall be with a blocking of your mouth **like a beast, that dies** and has not voice or speech." According to Second Autopcy Yuriy's mouth was gagged

He was picked up and ritual butcher-moher/reznik/schachter made three stubs- **Occipital stub.** In occipital area behind the ear and crane- The circular cut of

ritual-slaughter carves the tissues of the neck down to the cervical vertebrae and simultaneously the large neck vessels which lead to the brain, exactly in the same way that the Jewish ritual-slaughterers of cattle still to this day slaughter the unstunned beast. The non-Jew, too, is of course merely an animal, which receives its ritual consecration only through the fact that it is offered to Yahweh as a pleasing sacrifice! Dr. **Steiner** in Xanten case of **1891**, was convinced "that was a very sharp, large instrument with which the crime must have been done," since all parts of the neck down to the cervical vertebrae had been cut through

Bottom of neck stub on the right side of the neck base, ." In order to execute the act of ritual-slaughter," says the Jewish medical officer **Dammann** [*Expert Opinion Concerning the Jewish Procedure of Ritual-Slaughter*] (Hanover, **1886**), "the *schächter* stretches the skin of the neck with his left hand and quickly makes a cut somewhat below the larynx, through the tissues of the neck with the razor-sharp knife held in his right hand so deeply, that he penetrates to the vertebral bones. By the same (cut), the skin, the windpipe, the esophagus (gullet), the veins and arteries, as well as the nerve trunks which accompany these large vessels, are completely severed. In the beginning, the blood streams out massively from the opened vessels, then gradually more sparsely. . ." In **Polna** ritual-murder of **1899**, court physician Dr. **Prokes** in Kuttenberg determined that the ritual-slaughter cut could have been performed only by an expert hand and only with a long, sturdy, and very sharp instrument.

Horizontal stub on the upper left side of the chest-all three in major artery and vein area. Instead of circumcision he had two stubs in testacies.

Full blood drain. The blood was collected for about two hours. This method of killing makes possible a **complete running out** of the blood from all blood vessels, since the heart still continues to keep the blood moving even after the neck is cut: the blood is, so to speak, pumped out of the body through the opened arteries until death by exsanguination intervenes. While the autopsy of those who died [as victims] in the usual types of murder cases yield the finding that the blood in the

blood vessels is still present aside from that which ran out directly through the fatal wounds, the bodies and/or body parts of the victims who bled to death under the ritual-slaughter knife show themselves to be **absolutely empty of blood**!

The huge Y shaped incision on the first autopsy is hiding the number of stubs in the chest With a stub in the middle of sternum he was finished up and his heart was taken. Because of 16 hours time difference between California and Okinawa the blood was flown to San Francisco or Los Angeles exactly for Holiday of Pessah/Sheni.

The next night Saturday, his body was Crucified in ***Modum Crucis*** position allegedly in Evens clinic or a Synagogue Chapel, also could be a secret Synagogue place like in A. Yuschinsky case in Kiev 1911. A Second Passover offer for people who got unclean in contact with dead bodies - a soldiers, a killers had place.

Next Sunday night the bloodless body of LnCpl. Y.Y. Pletnikov was washed off, dressed up and dumped in front of Orthodox Chapel. The place is extremely convenient for that purpose, because it is a slight natural depression on the rolling hill under a big tree. The tree branches are few feet from the ground forcing the approaching person to walk around and not necessarily to see the body in that depression. According to JRM literature the body is never buried because goyim are considered animals and that would decrease the power of their blood. Monday morning the body is found by no less but 4/four/ Marines.

JEWISH RITUAL MURDER is the explanation which makes sense covering why there was no blood on the spot and no bloody clothes, why Yuriy was nailed on hands and legs, why his death coincided with Shenai/Pessah and Russian Orthodox Passover, why there was no struggle and no broken bones except the nose*(may be when he was apprehended)*, why there was no message left, why the body was cooked for 12 days, why his sternum, aorta, esophagus and neck were removed, why his hair and eye brows were colored, why nobody have heart his shooting early in the morning, why took more than 6 months to complete investigation.

The family is faced with package of lies-from Okinawa

to Washington, DC. Lying under oath while in office is part of the culture in this country, there are no moral, or ethical scruples-look at Colonel Oliver North lying about Iran-Contras scandal publicly up front of entire nation has made him a hero. In the other cited case here Judge G. Lewis Orange County Superior Court, refused to recuse himself 5 times although his son was working for Defense Law Firm. Court of appeal Justice W. Rylaarsdam is against the Demurrer, but accepts absolutely unlawful one in the interest of his friend Judge G. Lewis. In marriage case US Assistant Attorney S. Cerra, without representing anybody, but her own huge ego, is stepping in and closing the Civil Rights case exactly the way any bloody dictator would do. Two Judges in Central District and 3 judges in Court of Appeal could not find any thing wrong?!?!

In this case the lies are stocked up high: All officials lied misleading homicide for suicide; the wrong weapon is cited - a gun not a butcher knife; the killing time-is not 20th Monday morning, but 16th Thursday or 17th Friday night; the motive is made up-jealousy involving girlfriend vs. Ritual killing. They cook the body, blanch and bleach it for two weeks. We understand when Yuriy was alive he was under military order, but dead if he still an US Corps property while his murderers have more rights over his body than his family. They wait for 6 months because elections are coming in November 1998.

That creates the confrontations. In conversation with Captain Smith, after she insisted on suicide -USMC Casualty Unit-Washington, DC Kolev said: Captain Smith, when somebody tells me "the sky is green", I say "blue", he says "green" again I just say "you are a liar" and she is so offended after caring this blue uniform and lying many many times smiling without blushing-part of the culture too. Feels offended also Lieutenant Colonel O'Farrell from USMC base "El Toro" when Kolev told him that, he as a product of the cold war could not accept the Russian boy Yuriy Pletnikov to be one of his own- Yuriy is acceptable only when he is dead.

US Marines offer the father Y. N. Pletnikov to come for the funeral from Russia (that's another good reason to keep delaying and cooking further the body of his son). They buy a ticket-expensive one - open at any time both directions -Why?

Because when the family is making arrangements with Russian Consulate in San Francisco to help to transport the body back to Russia and the Consulate is giving approval US marines Marines have objected: *If you take the body of your son back to Russia, you have to pay the ticket because you are coming here only to visit, the funeral would be back in Russia. We paid you for the funeral, not for visit.*" How the poor electrician making $70 a month could pay a ticket for $2,181. So he is trapped, or more correctly the body of his dead son is trapped here. He has to change twice the flights in Helsinki and New York - a military person is coming to check if he is on the plane. He is subject of incredible search at the US Consulate at St. Petersburg How many US fathers are subject to such personal search at the funeral of their sons?

Now here is the portrait of the real Russian - not the stereotype of the Cold war era sold by the ancestors of "Pogrom" driven Russian Jews in Hollywood. When he is offered as a next of keen his half of "Dead insurance" of his son of $100,000 - an enormous sum for somebody, making $70 per month while the Government hold the salaries for many months - He proudly refuses these money as bloody one and nothing could hold him in America - he is living. How many Americans making $2,000-$3,000 a month would refuse equivalency of $5,000,000 insurance because the money are bloody.

US Marines **play with the mother A. Lifanova** too: She likes in particular **Fort Rosecrans National Cemetery** at Point Loma Peninsula in the bay of San Diego-high beautiful place overlooking the Pacific ocean on one side and San Diego bay on the other. But again here is their condition: because the cemetery ran out of space, the only way to burry Yuriy there is to have him cremated.

So it was a small self inflicted gun shot, but we(US Marines) prefer to keep the body here and to cremate it, before the official investigation is over.

After that they **play Yuriy's sister's G. Kolev** interest.. Paying money for funeral and transportation, USMC knew G. Kolev and N. Kolev have separate accounts. Wiretapping communications they knew wife and husband had bitterly argued about acceptance of Yuriy death cause. They negotiated

conditions to accept the Investigation report and probably certain amount of money were paid **only to the sister** to close Yuriy's case - a settlement provided eider by private donor, or by Military justifying it with next of keen relation. This way they are tempting Galina's interest to divorce and keep the money for herself.These bloody money are destroying the family and Year and a half later Galina is divorcing her husband: The purpose of Settlement money is achieved-the militant Brother-in-Law N. Kolev is not a relative of Yuriy and potentially could not file in Court, could not rise the case of Jewish Ritual Murder.

Significantly enough in divorce procedure Galina is presented by big Jewish Law Firm - **Bridgman and Associates**. The owner Bruce Bridgman is a former Deputy DA in Orange County, his wife still working as Attorney for DA Office. N. Kolev's **Attorney T. Prescott** miraculously is from Jewish extraction too. Kolev had a copy of Galina statement showing $120,000 in her account. Galina hid this account and claims she is a poor lady barely supporting herself. When Kolev confronts his Attorney T. Prescott to do something about this perjury and commingled account. T. Prescott secretly finalizes Property Settlement draft agreement.

Devastated Kolev is suing her for malpractice, but could not find Attorney. The case goes like knife in butter from Orange County Superior Court to US Supreme Court without producing any answer to more than 350 law violations. Why? **Naval Investigative Services, or Orange County District Attorney produced an Affidavit under FISA Title 50 US Code §§ 1801-1860** speculating about Yuriy's death ***/Russian who served in both armies/***to thwart any attempt by Yuriy's family to find the truth and to give **themSELVES** right to any violation of their privacy rights.

This mysterious Affidavit is used EVER SINSE to destroy the credibility of N. Kolev-the person who fought for Good name and Dignity of Russian US Marine Yuriy Y. Pletnikov. That's how match **"Equal protection under the law"** we have in the country leading World quest for democracy -a joke carved in the front of US Supreme Court

Kolev was not the last victim in this saga. In 2003

Yuriy's father died suddenly. He was a man in very good health, no drinking, no smoking, running every day. Officially his step daughter Galina announced he died from heart attack in the local library. Later on was known that Yuriy's father Yuriy Nikolaevich Pletnikov **fell off from 17th floor in Long Beach,CA**-suicide, homicide, or he just could NOT take any more American paradise without his son. May be he found out on his own about Ritual murder of his son.

I had to tell this story in order to protect my self from falling off from 17th floor, or of getting "heart attack" while reading in the library about Jewish Ritual Murder.

So to Jewish people who believes Jewish Ritual Murder doesn't exist I would tell that-libel is when a dreamer, a superman soldier is coming from opposite side of the world, of **the evil empire Russia**, ready to serve this country and to sacrifice for it. Instead of recognition he is murdered from the back to make matzoth of him and to serve pagan stone age rituals, so the official claim **he committed a suicide** is a real libel **TO THE MEMORY OF A GREAT MAN-RUSSIAN US MARINE LCPL Y.Y.PLETNIKOV.**

DISCLAIMER

N. Kolev is not rising here Jewish Ritual Murder case-after divorce, he is nobody to deceased Marine and **COULD NOT FILE ANYTHING** on his behalf, or on behalf of his father. Never JRM case would have a chance to reach US court.

This case is about the **Civil Right to get married, or divorced according to US Constitution, Bill of Rights** and so misleadingly known **"Fair and Due Process"**. The case is about corruption in **"Cosher"** American Embassy in Moscow used beyond any law and common sense to MAKE A BUCK, to achieve Zionist goals of Genocide and destruction of Russia, and Total and absolute disregard of the interests of **Gentile** US citizens, believing US Embassy would let them fairly marry in Russia

N. Kolev believes **he is not Anti-Semite** and calling him as a such is a **LIBEL** In St. Petersburg he had for 2/two/ years a Jewish girl-friend **Alla Boudenkova**-last known address:36 Budapestkaya St., Apt. 61 St. Petersburg, Russia. In

Belgium he lived with **Anna and Alexander Troepolsky** a Russian Jewish : 22 Rue Conciliation, Brusesels, Belgium . In USA his first Resume was prepared by **Alexander Burkat-Russian Jewish Manager** in Disney Studio-Burbank. His sponsor and First Cousin M. Marinov aka Arthur B. Burton was in close relations with **rabbi Haim Assa**-survivor of Holocaust in WW II and friend of Bulgarian Community. He founded **Synagogue Beth Tikva** in Fullerton, California and at the time of President Reagan was invited in White House for Services. I have been few times in the Synagogue and in his house:1147 N. Richman Ave., Fullerton, CA. Phones:(714) 871-3535; (714)-871-6172; (714)-525-4271.

I visited and knew **Mark Zisman-Russian Jewish Manager** of Russian Jewish theater in W. Hollywood-Los Angeles. I have a long friendship with **Leonard Schechtman-wholesale trader** of Russian newspapers in Chicago. In California his close friends were **Eugenia and Serge Samarchanz** from Lake Forest, CA, **Attorney Ira Lipshitz** married to a Bulgarian lady. I also helped out few Russian Jewish families when they arrived in USA.

4. US COURT OF APPEALS - 9TH CIRCUIT MEMO

NOT FOR PUBLICATION

FILED

APR 29 2005

CATHY A. CATTERSON, CLERK,
US COURT OF APPEALS

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

NICK A. KOLEV, P.E., Ph.D. Plaintiff-Appellant vs. DEPARTMENT OF HOMELAND SECURITY, BCIS California Service Center; et al., Defendants-Appellees	)Case No.: 04-56137)D.C. No. CV-03-07894-LGB)Central District of California,)Los Angeles))MEMORANDUM*))

Appeal from the United States District Court
for the Central District of California
Lourdes G. Baird, District Judge, Presiding
Submitted November 10, 2004**
Before: SKOPIL, FERGUSON, and BOOCHEVER, Circuit Judges

Petitioner Nick A. Kolev ("Kolev") appeals pro se the District Court's dismissal of his first amended complaint against the Department of Homeland Security, Department of State, and individual federal officials (collectively, the

*This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by Ninth Circuit Rule 36-3.

**This panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

"Government"). He contends that a consular officer at the United States Embassy in Moscow wrongfully denied a visa to his fiancée, Irina Krasnova ("Krasnova"), and seeks damages for the delay of her visa's adjudication.

We have jurisdiction under 28 U.S.C. § 1291. We review de novo the District Court's dismissal of Kolev's first amended complaint pursuant to Rules 12(b)(l) and 12(b)(6) of the Federal Rules of Civil Procedure. *Carson Harbor Vill., Ltd.* v. *City of Carson,* 353 F.3d 824, 826 (9th Cir. 2004), *cert. denied,* 125 S.Ct. 105 (2004); *Libas Ltd.* v. *Carillo,* 329 F.3d 1128, 1130 (9th Cir. 2003). For the reasons stated below, we AFFIRM.

Kolev lacks standing to bring his damage claims. The only injury Kolev suffered was the sunk costs of his travel arrangements because Krasnova did not receive her visa as soon as he would have liked. This injury is not traceable to the U.S. consulate's denial of Krasnova's visa. *See Northeastern Florida Contractors* v. *Jacksonville,* 508 U.S. 656, 663-64 (1993) (noting that an alleged injury must be fairly traceable to federal officials to establish Article III standing).

Kolev's claims are also moot since the U.S. consulate granted Krasnova's visa approximately five weeks after initially denying it. *See Wong* v. *Dep 't of State,* 789 F.2d 1380, 1384 (9th Cir. 1986) (quoting *County of Los Angeles* v. *Davis,* 440 U.S. 625, 631 (1979)) ("Where 'interim relief or events have

completely eradicated the effects of [an] alleged violation of law and there is no reasonable expectation that the violation will recur, a case is moot.").

Finally, we lack the authority to review the consular official's decision to deny Krasnova's visa. *See Li Hing of Hong Kong, Inc.* v. *Levin,* 800 F.2d 970, 971 (9th Cir. 1986) ("[T]he consular official's decision to issue or withhold a visa is not subject either to administrative or judicial review"); *Ventura-Es camilla* v. *INS,* 647 F.2d 28, 30 (9th Cir. 1981) r[R]eview of [a] Consul's decision denying [an] application for a visa ... is beyond the jurisdiction of the ... court"). **AFFIRMED**

5. US DISTRICT COURT ORDER OF DISMISSAL

ORIGINAL

FILED
CLERK US DISTRICT COURT
APR 28 2004
CENTRAL DISTRICT OF CALIFORNIA
BY_____DEPUTY

ENTERED
CLERK US DISTRICT COURT
APR 29 2004
CENTRAL DISTRICT OF CALIFORNIA
BY_____DEPUTY

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

NICK A. KOLEV, P.E., Ph.D. Plaintiff vs. DONALD NEUFELD, DEPART. OFHOMELAND SECURITY/BCIS CALIFORNIA SERVICE CENTER; DAVID TYLER,DEPARTMENT OF STATE NATIONAL VISA C-R JAMES PETTIT, DEPARTMENT O STATE-US EMBASSY /RUSSIA CONSULAR SECTION Defendants	CV-03-07894-LGB(RCx) ORDER GRANTING DEFENDANT'S MOTION TO DISMISS THE FIRST AMENDED COMPLAINT PURSUANT TO FEDERAL RULE OF CIVIL PROCEDURE12(b)(1) AND 12(b)(6)

I. INTRODUCTION

This Action arises from Defendants alleged delay granting a K-1 fiancée visa for Kolev's fiancée. Defendants Donald Neufeld, Department of homeland

Security/BCIS - California Service Center; David Tyler, Department of State -(National Visa Center; and James Pettit, Department of State - U.S. Embassy/Russia - Consular Section ("Defendants") have filed the instant motion to dismiss the First Amended Complaint of Plaintiff Nick A. Kolev ("Kolev") pursuant to Federal Rule of Civil Procedure Rule 12(b)(l) and Rule 12(b)(6).

II. FACTUAL AND PROCEDURAL BACKGROUND

Defendant filed this action on November 6, 2003. The First Amended Complaint ("FAC"), filed in pro per, alleges that Defendants violated Kolev's various rights warranting monetary damages when they delayed Kolev's fiancée's visa. The First Amended Complaint was filed on February 18, 2004. The essence of Kolev's complaint is to recover damages "including tickets, arrangements for hotels and vacation, tax break for the difference between filing single and married amount for $10,000, the intentional inflection of emotional and psychological stress amounts for $40,000 - the price for paid love about $200 per night for the whole period of waiting standing at 10 months." FAC, Sec. 81.

On or about March 26, 2003, Kolev, an American citizen, filed an I-129F petition for his fiancée with Immigration and Naturalization Service, now Citizenship and Immigration Services of the United States Department of Homeland Security. Irina Krasnova ("Krasnova") was the petitioner's beneficiary. FAC, Exh. 3. On September 16, 2003, Citizenship and Immigration Services granted Kolev's petition. FAC, Exh.7.

On December 10, 2003, Krasnova was interviewed by a consular official. FAC, Exh. 10. The consulate concluded that Krasnova did not appear to be eligible for a visa and denied her a visa pursuant to Section 221(g) of the Immigration and

Naturalization Act[1] Id. On December 16, 2003, Krasnova submitted additional evidence and on January 12, 2004, the consulate approved Krasnova's visa. Gorsky Dec L, ¶ *3.*

On March 8, 2004, Defendants filed the instant motion to dismiss Kolev's First Amended Complaint asserting that Kolev lacks subject-matter jurisdiction pursuant to Federal Rule of Civil Procedure 12(b)(l) and has failed to state claims upon which relief can be granted pursuant to Federal Rule of Civil Procedure 12(b)(6), Fed.R.Civ.P. 12(b)(l)& 12(b)(6). Kolev's opposition to the motion was due on March 22, 2004. On that date, defense counsel received from Kolev a conformed copy of a document captioned "'Notice of Service of First Amended Complaint." Despite the caption, it bore an annotation identifying the hearing date set for the motion to dismiss and contained some cursory discussion about the motion to dismiss. On March 25, 2004, Defendants filed a reply memorandum ("Reply"), believing that the document served on March 22, constituted Kolev's opposition to the motion. On March 26, 2004, defense counsel received a document from Kolev captioned "'Notice of Motion and Motion to Strike Defendants' Motion to Dismiss," which Kolev filed on the afternoon of March 25, 2004. On March 29, 2004, Defendants filed a supplement to their reply brief ("Supp.") in order to respond to the motion to strike.[2]

[1]A refusal under 221(g) gave Krasnova an opportunity to submit additional evidence of the nature of her relationship with Kolev and request reconsideration so that the additional evidence could be taken into account. See 42 C.F.R. § 42.81(b), which provides that if the visa is denied because of apparent ineligibility, the beneficiary may ask that the consulate retain her documents for a year if she believes that she may be able to establish eligibility by presenting additional documents. She may then request reconsideration upon timely presentation of the additional evidence.

[2]Kolev's document labeled "Notice of Service of First Amended Complaint" will be treated as the Opposition brief and will be labeled as "Opp." Kolev's subsequent document

III. LEGAL STANDARDS

A. Failure to state a claim Rule 12(b)(6)

Federal Rule of Civil Procedure 12(b)(6) provides for dismissal when a complaint fails to state a claim upon which relief can be granted. Fed.R.Civ.P. 12(b)(6). Dismissal for failure to state a claim is proper only if it appears beyond doubt that the plaintiff would be entitled to no relief under any state of facts that could be proved. Woodrum v. Woodward County, 866 F.2d 1121, 1124 (9th Cir. 1989):Smith v. Fontana. 818 F.2d 1411, 1416 (9th Cir. 1987).

In reviewing a Rule 12(b)(6) motion, the court must presume the truth of the factual allegations in the complaint and draw all reasonable inferences in favor of the non-moving party. See Parks Sch. of Bus., Inc. v. Symington. 51 F.3d 1480, 1484 (9th Cir. 1995): see also Usher v. City of Los Angeles. 828 F.2d 556, 561 (9th Cir. 1987). Dismissal under Rule 12(b)(6) is appropriate "only if it is clear that no relief could be granted under any set of facts that could be proved consistent with the allegations." Hishon v. King & Spalding. 467 U.S. 69, 73 (1984) (citations omitted). The issue is not whether the plaintiff will ultimately prevail, but whether the plaintiff is entitled to offer evidence to support the plaintiffs claim. See Usher, 828 F.2d at 561. Moreover, the allegations of the complaint drafted by a pro se litigant are held to less stringent standards than formal pleadings drafted by lawyers. Haines v. Kemer, 404 U.S. 519, 520 (1971).

"Notice of Motion and Motion to Strike Defendants' Motion to Dismiss" will be treated as a supplement to the Opposition brief and will be labeled as "Mot. to strike."

Lack of subject matter jurisdiction Rule 12(b)(l)

Rule 12(b)(l) permits a party to seek dismissal of an action for lack of subject matter jurisdiction. Fed.R.Civ.P. 12(b)(l). The court shall dismiss the action "whenever it appears by suggestion of the parties or otherwise that the court lacks jurisdiction of the subject matter." Fed.R.Civ.P. 12(h)(3). The plaintiff bears the burden of establishing the existence of subject matter jurisdiction. See Stock West Inc. v. Confederated Tribes of Colville Reservation. 873 F.2d 1221, 1225 (9th Cir. 1989); McNutt v. General Motors Acceptance Corp. of Ind.. 298 U.S. 178, 189(1936). Initially, there is a presumption of lack of jurisdiction until the plaintiff affirmatively proves otherwise. Stock West 873 F.2d at 1225. In adjudicating a 12(b)(l) motion, a court is not limited to the pleadings, and may properly consider extrinsic evidence. See Fair v. United States. 990 F.2d 451,454 (9th Cir.), cert. denied, 510 U.S. 1023 (1993).

C. Sovereign Immunity

The "basic rule of federal sovereign immunity is that the United States cannot be sued at all without the consent of Congress." Block v. North Dakota ex rel Bd. Of Univ. & School Lands. 461 U.S. 273, 287 (1983). Claims against the defendants in their official capacity cannot circumvent the government's sovereign immunity because an official capacity claim is deemed a suit against the United States. Gilbert v. DaGrossa. 756 F.2d 1455, 1458 (9th Cir. 1985).

A complaint must be dismissed unless it clearly sets forth statutes waiving sovereign immunity and specifically confers subject matter upon the Court. Krouse v. United States Gov't Tres. Dept Int. Rev. Serv., 380 F.Supp. 219, 221 (C.D. Cal. 1974): see also Williams v. United States. 711 F.2d 893 (9th Cir. 1983);see further as to the burden of identifying an unequivocal

waiver of sovereign immunity, Kokkonen v. Guardian Life Ins. Co., 511 U.S. 375, 377 (1996); Holloman v. Watt 708 F.2d 1399, 1401 (9th Cir. 1983); Data Disc., Inc. v. Systems Tech. Assoc.- Inc., 577 F.2d 1280, 1285 (9th Cir. 1977). A federal court is presumed to lack jurisdiction in a particular case "unless the contrary affirmatively appears." General Atomic Co. v. United Nuclear Corp., 655 F.2d 968, 970 (9th Cir. 1981).

IV. ANALYSIS

Defendants argue that Kolev has not stated a claim for relief for each of his claims and/or lacks subject matter jurisdiction. The Court addresses each claim in turn.

As a preliminary matter, in his First Amended Complaint, Kolev alleges that "all three defendants are sued in their private capacity for intentionally violating Plaintiffs constitutional right of free choice to marry... by denying a K-l Marriage Visa for his fiancée FAC, Sec.45. Kolev further declares that he is not suing the defendants in their official capacities. See Mot. to strike pp. 8, 11, 20. Despite his claim that he is only suing Defendants in their individual-capacity, he also asserts that he can bring a claim against Defendants in their official capacity without it being barred by the sovereign state immunity theory FAC, Sec. 46,) Therefore, it is unclear whether Kolev brings this suit against the defendants in their individual or official capacities.[3]

Accordingly, Defendants' counsel represents Defendants only in their official-capacities. Mot. at 1, n l. Since Kolev's First Amended Complaint addresses some allegations that can be construed to be against the Defendants in

[3]The parties dispute whether Kolev properly served Defendants in their individual capacities. The Court addresses that issue in its order denying Plaintiffs motion to compel service of the first amended complaint also issued on April 28,2004.

their official capacities, the Court, addresses those claimsbelow.

A. Mootness

Article III, § 2 confines the federal judicial power to "cases or controversies." There is no case or controversy unless there is a "live" issue so that the Court may grant "actual, affirmative relief." Friends of the Payette v. Horseshoe Bend Hydroelectric Co., 988 F.2d 989, 995 (9th cir. 1993); see also United Food & Comm. Workers Union Local 751 v. Brown Group. Inc., 517 U.S. 544, 550 (1996)(at "irreducible minimum" showing required of injury for which the Court may order redress). A federal court has no authority to give opinions upon moot questions. Schwarzer, Tashima, Wagstaffe, Federal Civil Procedure Before Trial § 2:1267.

Defendants argue that Kolev's First Amended Complaint is moot because the consulate issued a visa to Krasnova even before the First Amended Complaint was filed and that no injunctive or declaratory relief in the nature of mandamus remains to be accomplished. Kolev concedes that the denial of the visa claim is moot but asserts that he has a monetary damages claim for violation of right-to-marry as a result of, *inter alia*, the delay of Krasnova's visa. Mot. to strike at 6. Because there is no dispute as to the mootness of the visa delay the Court will not address the claims that relate to efforts to obtain a visa on their merits.

B. Kolev's Damages Claims against the United States

A claim for monetary damages for past wrongful conduct, even if that conduct has ceased, avoids mootness unless the claim is so insubstantial or so clearly foreclosed by prior decisions that the case may not proceed. Memphis Light Gas & Water Div. v. Craft, 436 U.S. 1, 9 (1978). Kolev essentially claims that even if the visa claim is moot, the monetary damages which are the result of the visa delay are not moot.

Kolev alleges that because the consular officer delayed processing his fiancee's visa, he suffered various monetary damages including, the value of his plane ticket, arrangement for his hotels and vacation and a loss in a tax break for filing single as opposed to filing married, and damages for emotional distress. FAC, ¶¶ 81, 78-80; Mot. to strike at 6. Defendants argue that Kolev cannot recover damages for the consular decision because consular decisions are not subject to judicial review, let alone claims for damages. Supp. Reply at 2.

An official capacity claim is deemed a suit against the United States. Gilbert, 756 F.2d 1458. It is well settled that the United States is a sovereign, and as such, is immune from suit unless it has expressly waived such immunity and consented to be sued. United States v. Shaw, 309 U.S. 495, 500-01 (1940);Hutchinson v. United States, 677 F.2d 1322, 1327 (9th Cir. 1982). Such waiver cannot be implied, but must be unequivocally expressed. United Stats v. King, 395 U.S. 1, 4 (1969). Where a suit has not been consented by the United States, dismissal of the action is required. Hutchinson, supra. Kolev attempts to rely on several different statutes to establish waiver of sovereign immunity.

1. Federal Tort Claims Act

Generally, federal sovereign immunity is not waived unless there is consent by Congress. Block, 461 U.S. at 287. In certain tort actions for damages against the federal government, Congress waives its sovereign immunity pursuant to the Federal Tort Claims Act ("FTCA"). See 28 U.S.C. 1367(b),

Kolev seeks monetary damages arising from the consular visa decision, pursuant to the FTCA, 28 U.S.C. §§ 1346(b), 2671-2680. FAC, ¶¶ 44, 47, 78-80. He contends that he is entitled to damages for the common law tort of intentional infliction of emotional distress because the consulate "knew that

the Plaintiff was substantially certain to suffer emotional distress from [with]holding his K-l visa." FAC, Sec.78-80 (quotation on ¶ 78(B)).[4] Defendants claim that the Court lacks subject matter jurisdiction because Kolev does not „ allege that prior to filing suit he exhausted the FTCA administrative remedy as required by 28 U.S.C. § 2675.

The FTCA provides that an "action shall not be instituted upon a claim against the United States for money damages" unless the claimant has first exhausted his administrative remedies- 28 U.S.C. § 2675(a). Before a plaintiff files a civil action, he must first present agency and the agency must have finally denied his claim. See Id. Absent this process of exhaustion under section 2675(a), there can be no subject matter jurisdiction over an FTCA case. McNeil v. United States, 508 U.S. 106 fl993). The jurisdictional deficit cannot be cured by exhaustion of the administrative remedy following the commencement of litigation. McNeil v. United States, supra. Kolev is required to submit a claim for "money damages in a sum certain" to the appropriate agency and to obtain a final denial before he can acquire the Court's subject matter jurisdiction. 28 U.S.C.§2675(a)

Kolev alleges that he exhausted his administrative remedies when he sent his complaint with his passport and all the evidence on August 23, 2003. Motion to strike at 16; see also FAC ¶ 24. He attempts to evidence his claim by referring to the attachments in his First Amended Complaint (Exh. 10). Id. However, there are no documents in Exhibit 10 which meet the description of a "sum sertain " that Kolev states he submitted on August 23, 2003. Nevertheless, an undated letter addressed to the Department of State, Bureau of Consular Affairs, does contain a

[4]Kolev also asserts FTCA jurisdiction under the theory that the claims arising from the visa denial are constitutional torts, arguing that Congress "has reconsidered, on numerous occasions" whether to waive sovereign immunity for constitutional torts. FAC If 47. Congress may have considered and reconsidered the issue, but the FTCA does not waive the government's sovereign immunity for constitutional torts and the United States has not otherwise consented to be sued. Rivera v. United States- 924 F.2d 948, 951 (9th Cir. 1991).

demand for money damages of $7,000. See FAC, Exh. 8.

Even assuming that Kolev could establish actual delivery of the document to the government and that the date of delivery was October 15, 2003, he still cannot establish exhaustion.[5] No final denial was issued by the agency (See his statement that he received no answer to his demands. Mot. to strike at 16.) Furthermore, Kolev did not allow a period of at least six months to pass before he commenced this instant action on November 3,2003. He has therefore failed to exhaust the administrative remedy. This jurisdictional defect alone is a basis for dismissing Kolev's First Amended Complaint. See McNeil v. United States, 508 U.S. 106 (1993)(Court dismissed pro per plaintiffs complaint because he did not exhaust his administrative remedies before filing his lawsuit).

Since Kolev has not satisfied his administrative remedy, the FTCA cannot be a basis for monetary damages against the United States. Plaintiff has not overcome the defendants' sovereign immunity. Therefore, this claim is dismissed for lack of subject matter jurisdiction pursuant to Federal Rule of Civil Procedure Rule 12(b)(l). Fed.R.Civ.P. 12(b)(l).

2. Freedom of Information Act

Kolev also invokes the Freedom of Information Act ("FOIA") to challenge the $ 1.65 a minute charge for obtaining information by telephone. FAC ¶ 43(H)(b). The gist of the claim is unclear, but to the extent that Kolev claims money damages, the Court lacks subject matter jurisdiction because FOIA does not provide a cause of action for damages. Gasparutti v. United States, 22 F.Supp.2d 1114, 1116-17 (C.D. Cal. 1998). The only appropriate remedy when FOIA is allegedly violated is for a plaintiff to bring an action to compel the government to comply with the requirements under FOIA, pursuant to 5 U.S.C. § 552(a)(4)(B). Kolev does not allege any facts to invoke this statute, and therefore fails to state a claim for which reiief may be granted.

V. CONCLUSION

Kolev has failed to state a claim upon which relief can be granted and failed to establish proper subject matter jurisdiction. For the foregoing reasons, Defendants' motion to dismiss is **GRANTED**, and Kolev's complaint is dismissed.

IT IS SO ORDERED,Dated:April28 2004 L.G.Baird/Sign./

6. US CONGRESSWOMAN L.ROYBAL-ALLARD TO US EMBASSY - MOSCOW

HOUSE OF REPRESENTATIVES-SEAL

LUCILLE ROYBAL-ALLARD
34TH DISTRICT, CALIFORNIA

December 12, 2003
US Embassy Moscow
Consular Section, 21
Immigrant Visa Section
Novinskiy Bulvar 123242
Moscow, Russia
Re: Ms, Irina V. Krasnova MOS 2003 762 010

Dear Sir or Madam:

I am writing on behalf of my constituent, Mr. Nick Kolev, who contacted my office regarding his fiancée, Ms. Irina Krasnova's Immigrant Visa application.

It is my understanding that Ms. Krasnova attended her interview on December 10,2003, and presented all of the requested documentation. Unfortunately, the visa was denied, pursuant to Section 221(g) of the INA. Ms. Krasnova was given a form indicating the reason for the revocation. However, the form was not readable, due to black blotches on it. Mr. Kolev requests a clear copy of this form and also requests to reschedule Ms. Krasnova for another interview to present additional evidence of their relationship.

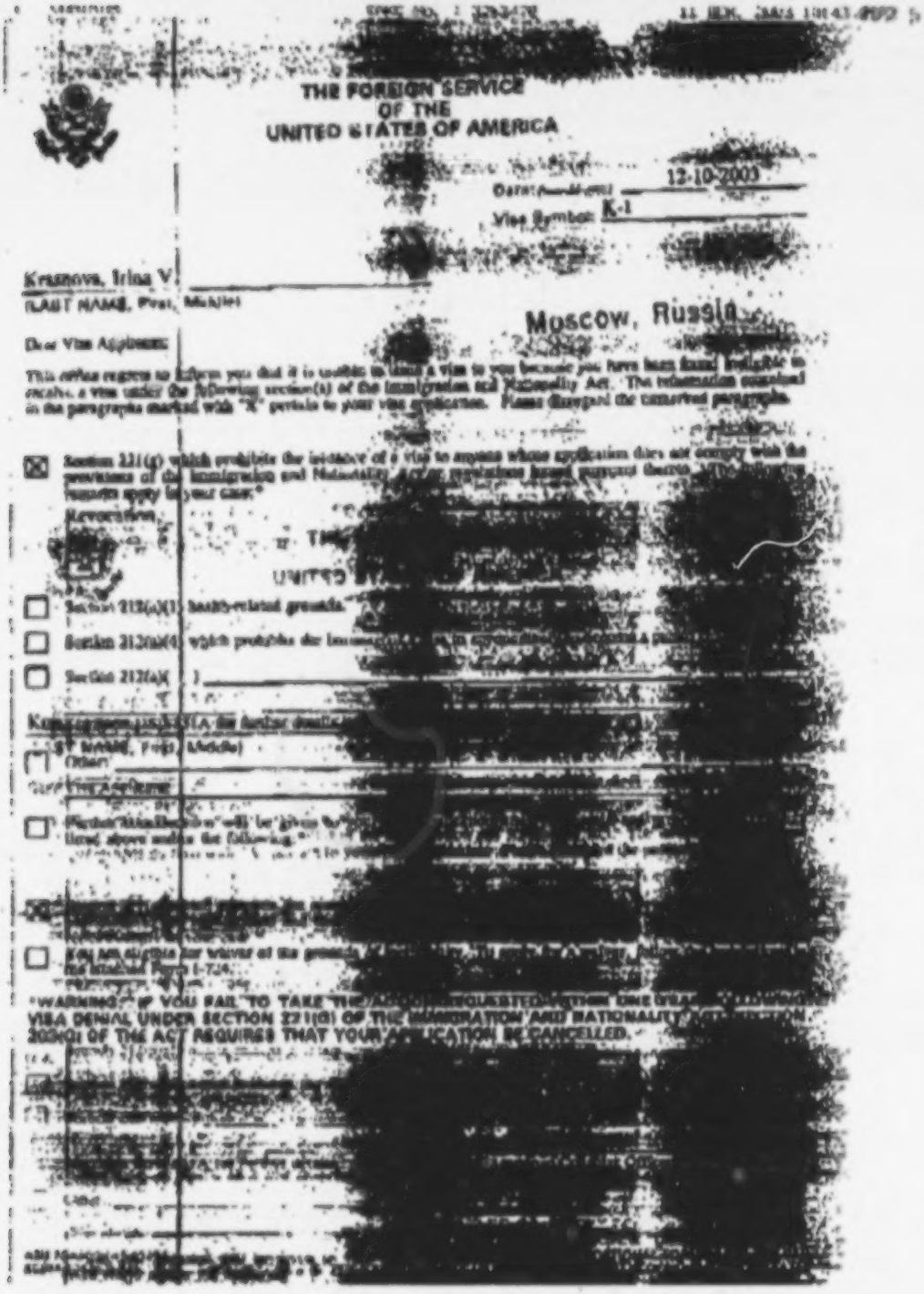
I am kindly asking for your full and fair reconsideration of their request for an immigrant visa, consistent with your agency's rules and regulations. I would appreciate a written response on the outcome of this request to be sent to my District Office at, 255 E. Temple St., Suite 1860, Los Angeles, CA 90012. If you have any questions or require further information, please contact Ms. Ann Martinez, of my staff, at (213) 628-9230 or you may reach her by email at ann.martinez@mail.house.gov.

Thank you in advance for your prompt attention to this matter.

Sincerely,

LUCILLE ROYBAL-ALLARD/Member of Congress/

7. REFUSAL BASED ON PREJUDICE TYPE OF "KIZUR SHULCHAN ARUCH"
(Gentiles are not considered human)



THE FOREIGN SERVICE
OF THE
UNITED STATES OF AMERICA

Date: 12-10-2003

Visa Symbol: K-1

Krasnova, Irina V.

Moscow, Russia

"WARNING: IF YOU FAIL TO TAKE THE REQUESTED ACTION WITHIN ONE YEAR, VISA DENIAL UNDER SECTION 221(g) OF THE IMMIGRATION AND NATIONALITY ACT, 203(g) OF THE ACT REQUIRES THAT YOUR APPLICATION BE CANCELLED.

8. US EMBASSY-MOSCOW K-1 PREJUDICE

List of Documents for Fiance(e) Visa Interview

1. A valid International Passport with a photocopy of the first page.

2. An original birth certificate with its photocopy and translation into English.

3. Police certificates in all names as well as all dates of birth ever used. Police certificate must contain references to each place (subject to the jurisdiction of the Russian Federation) in which the applicant lives or has lived for more than six months since attaining the age of 16. This includes localities where applicants have lived during university studies. If the applicant was on military service, he/she should bring the certificate from the local draft board. If an applicant has lived abroad for more than one year, a police certificate must also be submitted from the country in which he/she lived. Police certificate validity is one year since the date of issuance.

4. Evidence of termination of prior marriage (if applicable), original, photocopy and translation into English.

5. Accompanying child requires a valid passport (or may be included in the parent's passport), a birth certificate and a medical examination. If a child is 16 years of age or over, police certificates are required. Translations of the indicated documents are required as well.

6. 3 black-and-white or color photos taken against a white or off - white background (5x5 sm) for visa.

7. 3 photos of passport size for medical exam.

8. Visa application fee of $ 100 (or the ruble equivalent) per person, payable at the Embassy on the day of interview.

9. Documents confirming relationship: photos of Petitioner and Beneficiary together, letters to each other, phone bills, airplane tickets, emails. ***(This is by Shulchan Aruh-NOT US LAW)***

10. Results of Medical Examination in a sealed envelope.

11 Financial documentation from the petitioner may include but is not limited to employment letter for the petitioner with salary information and/or a copy of tax returns (Form 1040) for the last year, bank statement, W-2s. 1-134 Affidavit of Support is not required but may be presented. ***(This is by Shulchan Aruh-NOT US LAW)***.

12. DHL receipt to confirm you paid for visa delivery. The fee can be paid at one of the DHL offices.

A:\4H9800.doc 10/09/03//8:34

9. US CONGRESSWOMAN L.ROYBAL-ALLARD TO BCIS-LOS ANGELES

HOUSE OF REPRESENTATIVES-SEAL

LUCILLE ROYBAL-ALLARD
34TH DISTRICT, CALIFORNIA

September 18,2003
Ms. Alma Puente
Acting Director, Congressional Liaison Unit
Bureau of Citizenship and Immigration Services
300 North Los .Angeles Street, Room 6060
Los Angeles, California 90012-3308
Re: Irina Krasnova
File #: A96 359 349
Form # / Date Filed: I-129F / March 2003

Dear Ms. Puente:

Enclosed please find a written inquiry with supporting evidence from my constituent, Mr. Nick Kolev, who petitioned on behalf of his fiancée, Ms. Irina Krasnova. I would appreciate your assistance with the investigation of this immigration case.

I would also appreciate that your written response on the status of this case to be sent to my district office to the attention of my immigration caseworker, Ms. Ann Martinez. If you have any questions, please call my district office at (213) 628-9230.

Thank you in advance for your prompt attention to this matter.

Sincerely,
LUCILLE ROYBAL-ALLARD
/Member of Congress/